

THE IMPACT OF VISA PROCESSING DELAYS ON THE ARTS, EDUCATION, AND AMERICAN INNO- VATION

HEARING BEFORE THE COMMITTEE ON GOVERNMENT REFORM HOUSE OF REPRESENTATIVES ONE HUNDRED NINTH CONGRESS SECOND SESSION

APRIL 4, 2006

Serial No. 109-140

Printed for the use of the Committee on Government Reform



Available via the World Wide Web: <http://www.gpoaccess.gov/congress/index.html>
<http://www.house.gov/reform>

U.S. GOVERNMENT PRINTING OFFICE

27-512 PDF

WASHINGTON : 2006

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2250 Mail: Stop SSOP, Washington, DC 20402-0001

COMMITTEE ON GOVERNMENT REFORM

TOM DAVIS, Virginia, *Chairman*

CHRISTOPHER SHAYS, Connecticut	HENRY A. WAXMAN, California
DAN BURTON, Indiana	TOM LANTOS, California
ILEANA ROS-LEHTINEN, Florida	MAJOR R. OWENS, New York
JOHN M. McHUGH, New York	EDOLPHUS TOWNS, New York
JOHN L. MICA, Florida	PAUL E. KANJORSKI, Pennsylvania
GIL GUTKNECHT, Minnesota	CAROLYN B. MALONEY, New York
MARK E. SOUDER, Indiana	ELIJAH E. CUMMINGS, Maryland
STEVEN C. LATOURETTE, Ohio	DENNIS J. KUCINICH, Ohio
TODD RUSSELL PLATTS, Pennsylvania	DANNY K. DAVIS, Illinois
CHRIS CANNON, Utah	WM. LACY CLAY, Missouri
JOHN J. DUNCAN, JR., Tennessee	DIANE E. WATSON, California
CANDICE S. MILLER, Michigan	STEPHEN F. LYNCH, Massachusetts
MICHAEL R. TURNER, Ohio	CHRIS VAN HOLLEN, Maryland
DARRELL E. ISSA, California	LINDA T. SANCHEZ, California
JON C. PORTER, Nevada	C.A. DUTCH RUPPERSBERGER, Maryland
KENNY MARCHANT, Texas	BRIAN HIGGINS, New York
LYNN A. WESTMORELAND, Georgia	ELEANOR HOLMES NORTON, District of Columbia
PATRICK T. McHENRY, North Carolina	_____
CHARLES W. DENT, Pennsylvania	BERNARD SANDERS, Vermont
VIRGINIA FOXX, North Carolina	(Independent)
JEAN SCHMIDT, Ohio	

DAVID MARIN, *Staff Director*

LAWRENCE HALLORAN, *Deputy Staff Director*

TERESA AUSTIN, *Chief Clerk*

PHIL BARNETT, *Minority Chief of Staff/Chief Counsel*

CONTENTS

Hearing held on April 4, 2006	Page 1
Statement of:	
Edson, Tony, Deputy Assistant Secretary for Visa Services, U.S. Department of State; and Jess T. Ford, Director, International Affairs and Trade, U.S. Government Accountability Office	11
Edson, Tony	11
Ford, Jess T.	22
Ma, Yo-Yo, artistic director, the Silk Road Project, Inc.; Sandra L. Gibson, president and chief executive officer, Association of Performing Arts Presenters; Dennis J. Slater, president, Association of Equipment Manufacturers; Kevin Schofield, general manager, strategy and communications, Microsoft Research; and Elizabeth C. Dickson, advisor, immigration services, Ingersoll-Rand Co., and Chair, U.S. Chamber of Commerce Immigration Subcommittee	57
Dickson, Elizabeth C.	109
Gibson, Sandra L.	63
Ma, Yo-Yo	57
Schofield, Kevin	93
Slater, Dennis J.	80
Letters, statements, etc., submitted for the record by:	
Davis, Chairman Tom, a Representative in Congress from the State of Virginia, prepared statement of	3
Dickson, Elizabeth C., advisor, immigration services, Ingersoll-Rand Co., and Chair, U.S. Chamber of Commerce Immigration Subcommittee, prepared statement of	111
Edson, Tony, Deputy Assistant Secretary for Visa Services, U.S. Department of State, prepared statement of	13
Ford, Jess T., Director, International Affairs and Trade, U.S. Government Accountability Office, prepared statement of	24
Gibson, Sandra L., president and chief executive officer, Association of Performing Arts Presenters, prepared statement of	66
Ma, Yo-Yo, artistic director, the Silk Road Project, Inc., prepared statement of	60
Schofield, Kevin, general manager, strategy and communications, Microsoft Research, prepared statement of	95
Slater, Dennis J., president, Association of Equipment Manufacturers, prepared statement of	82
Waxman, Hon. Henry A., a Representative in Congress from the State of California, prepared statement of	7

THE IMPACT OF VISA PROCESSING DELAYS ON THE ARTS, EDUCATION, AND AMERICAN INNOVATION

TUESDAY, APRIL 4, 2006

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 10:01 a.m., in room 2154, Rayburn House Office Building, Hon. Tom Davis (chairman of the committee) presiding.

Present: Representatives Tom Davis, Shays, Platts, Duncan, Issa, Porter, Foxx, Schmidt, Waxman, Cummings, Kucinich, Watson, Van Hollen, and Norton.

Staff present: David Marin, staff director; John Hunter and Jim Moore, counsels; Rob White, communications director; Andrea LeBlanc, deputy director of communications; Brien Beattie, professional staff member; Teresa Austin, chief clerk; Sarah D'Orsie, deputy clerk; Phil Barnett, minority staff director/chief counsel; Michael McCarthy, minority counsel; Earley Green, minority chief clerk; and Jean Gosa, minority assistant clerk.

Chairman TOM DAVIS. Good morning. The committee will come to order.

I want to welcome everybody to today's hearing on the challenges facing the State Department in balancing security and efficiency in the visa process. The purpose of this hearing is to highlight the Department's efforts to cope with the ever-increasing visa application volume in the post-September 11th security environment. We also will examine the impact of this process on American economic and cultural vitality and explore ways Congress can ensure that the United States remains open and accessible.

Following the September 11th attacks, we came to understand that our borders begin overseas at our consulates and that the process of granting a visa to foreign citizens seeking to travel here is the first line of defense in protecting the homeland from terrorist attack. Each of the September 11th terrorists had at some point been vetted through a U.S. consulate and received a visa. Consequently, the Government has gone to great lengths to secure the visa process.

Congress mandated that nearly every applicant for a visa be interviewed, the State Department began collecting biometrics on all applicants, and many new consular employees were hired. This state of affairs, however, has placed tremendous strains on the visa process. Currently, some applicants for visas to the United States

can face daunting waits just to get interviews, while others face merely seasonal spikes in wait times or little wait at all. Indians, in particular, face interview wait times ranging from 100 to 160 days. That is simply unacceptable.

In our increasingly interconnected world, ease of movement across national borders—of people and of capital—is inextricably tied to economic prosperity. A quest for perfect security is a fool's errand. Instead, we need to find ways to maximize security while simultaneously preserving the vibrant and open character of American society. In other words, what risks are we prepared to accept and what burdens are we prepared to impose on legitimate travel to the United States? As the President signaled in his State of the Union address this year, the competitiveness of the American economy is a central concern for this Government, and an efficient visa process is a vital component of that agenda.

American businesses need to be able to bring foreign partners and customers here on short notice; American universities need to continue attracting top-level foreign students many of whom will choose to stay in the United States and bolster our economy; and the American cultural scene will continue to remain vibrant only as long as foreign artists are able to bring their work to American stages and galleries. Trade shows and arts presenters in particular represent a significant segment of the U.S. economy, comprised largely of small businesses that do not always have the resources to cope with the significant additional expense of an inefficient process. When these important sectors of our economy are unable to do business in the United States, our collective quality of life suffers.

One of our jobs in Congress is to make sure the executive branch has the tools it needs to do its job as efficiently and effectively as possible. At today's hearing I want to hear from our witnesses about ways that Congress can assist the State Department in streamlining the visa process, as well as creative suggestions for improvements to the process itself. For example, do we need to continue interviewing almost every applicant for visas once their biometrics are stored in Government data bases? Also, how can we make it easier for State to hire the employees it needs to maximize consular efficiency? These are just some of the questions the committee is interested in addressing today.

[The prepared statement of Chairman Tom Davis follows:]

**Chairman Tom Davis
Opening Statement
Government Reform Committee Hearing
“The Impact of Visa Processing Delays on the
Arts, Education and American Innovation”
Tuesday, April 4, 2006
10:00 a.m.
Room 2154 Rayburn House Office Building**

Good morning and welcome to today’s hearing on the challenges facing the State Department in balancing security and efficiency in the visa process. The purpose of this hearing is to highlight the Department’s efforts to cope with ever-increasing visa application volume in the post-9/11 security environment. We also will examine the impact of this process on American economic and cultural vitality, and explore ways Congress can ensure the U.S. remains open and accessible.

Following the 9/11 attacks, we came to understand that our borders begin overseas at our consulates and that the process of granting a visa to foreign citizens seeking to travel here is the first line of defense in protecting the homeland from terrorist attack. Each of the 9/11 terrorists had at some point been vetted through a U.S. consulate and received a visa. Consequently, the Government has gone to great lengths to secure the visa process.

Congress mandated that nearly every applicant for a visa be interviewed, the State Department began collecting biometrics on all applicants, and many new consular employees were hired. This state of affairs, however, has placed tremendous strains on the visa process. Currently, some applicants for visas to the United States can face daunting waits just to get an interview, while others face merely seasonal spikes in wait

times or little wait at all. Indians, in particular, face interview wait times ranging from 100 to 160 days; this is simply unacceptable.

In our increasingly interconnected world, ease of movement across national borders – of people and of capital – is inextricably tied to economic prosperity. A quest for perfect security is a fool's errand. Instead, we need to find ways to maximize security while simultaneously preserving the vibrant and open character of American society. In other words, what risks are we prepared to accept, and what burdens are we prepared to impose, on legitimate travel to the U.S.? As the President signaled in his State of the Union address this year, the competitiveness of the American economy is a central concern for this Government, and an efficient visa process is a vital component of that agenda.

American businesses need to be able to bring foreign partners and customers here on short notice; American universities need to continue attracting top-level foreign students, many of whom will choose to stay in the U.S. and bolster our economy; and the American cultural scene will continue to remain vibrant only as long as foreign artists are able to bring their work to American stages and galleries. Trade shows and arts presenters in particular represent a significant segment of the U.S. economy, comprised largely of small businesses that don't always have the resources to cope with the significant additional expense of an inefficient visa process. When these important sectors of our economy are unable to do business in the U.S., our collective quality of life suffers.

One of our jobs in Congress is to make sure the Executive Branch has the tools it needs to do its job as efficiently and effectively as possible. At today's hearing I want to hear from our witnesses about ways that Congress can assist the State Department in streamlining the visa process, as well as creative suggestions for improvements to the process itself. For example, do we need to continue interviewing almost every applicant for visas once their biometrics are stored in Government databases? Also, how can we make it easier for State to hire the employees it needs to maximize consular efficiency? These are just some of the questions the Committee is interested in addressing today.

We have two distinguished panels of witnesses today, including international music maestro, Yo-Yo Ma, who has taken time out of his busy tour schedule to join us this morning. Again, I want to welcome all of our witnesses to today's hearing.

Chairman TOM DAVIS. We have two distinguished panels of witnesses today, including international music maestro, Yo-Yo Ma, who has taken time out of his busy tour schedule to join us this morning. Again, I want to thank all of our witnesses for being here.

I would now recognize our distinguished ranking member, Mr. Waxman.

Mr. WAXMAN. Thank you, Mr. Chairman, and thank you for holding this hearing.

The openness of American society is one of our Nation's greatest strengths. Unfortunately, as the September 11th hijackers demonstrated, our openness can sometimes be used as a weapon against us. In today's hearing, we will examine whether our visa policy is striking the right balance between openness to culture and innovation and protecting national security. I fear that we are not achieving that balance.

Since September 11th, Congress and the State Department have mandated that nearly all applicants be fingerprinted and appear for a face-to-face interview before a visa can be issued. These requirements create a burden for applicants, who often have to travel great distances to the nearest U.S. consulate. The requirements were also a challenge for the State Department, which initially lacked—and may still lack—the consular officers and physical space to conduct large numbers of interviews in a timely way.

As a result of these new policies, delays in visa processing exist in our embassies and consulates throughout the world. GAO will testify that the applicants in India can expect to wait nearly 6 months between submitting an application and appearing in person for an interview. This is simply not acceptable.

The long delay in processing visas is the result of efforts to protect our national security. But, in fact, it can have the opposite effect. In the long run, our security is enhanced—not diminished—by the exchange of people and ideas.

There are also economic consequences to the delays in visas. In my district in Los Angeles, both the entertainment and technology industries rely on the inflow of ideas from overseas to ensure that we remain at the forefront of innovation and competitiveness. Unfortunately, as we will hear from our witnesses today, new security requirements that Congress mandated after September 11th have created a backlog in visa processing that is hindering the timely exchange of ideas and commerce through cultural events, education, and trade.

Today we will hear from the State Department about why it is taking so long to reduce the backlog of visa applications. And we will start the process of considering whether there are steps Congress should take to streamline the application and interview process.

I appreciate the appearance of our special guest, Yo-Yo Ma, who will testify about the effect of the visa delays on the performing arts, and our other witnesses, who will testify about the impact on business and technology innovation.

Thank you, Mr. Chairman.

[The prepared statement of Hon. Henry A. Waxman follows:]

**Statement of Rep. Henry A. Waxman, Ranking Minority Member
Committee on Government Reform
Hearing on “A Symphony in F Minor: The Impact of
Visa Processing Delays on the Arts,
Education, and American Innovation”**

April 4, 2006

The openness of American society is one of our nation’s greatest strengths. Unfortunately, as the 9/11 hijackers demonstrated, our openness can sometimes be used as a weapon against us. In today’s hearing, we will examine whether our visa policy is striking the right balance between openness to culture and innovation and protecting national security. I fear that we are not.

Since 9/11, Congress and the State Department have mandated that nearly all applicants be fingerprinted and appear for a face-to-face interview before a visa can be issued. These requirements create a burden for applicants, who often have to travel great distances to the nearest U.S. consulate. The requirements were also a challenge for the State Department, which initially lacked – and may still lack – the consular officers and physical space to conduct large numbers of interviews in a timely way.

As a result of these new policies, delays in visa processing exist in our embassies and consulates throughout the world. GAO will testify today that applicants in India can expect to wait nearly six months between submitting an application and appearing in person for an interview. This is simply not acceptable.

The long delay in processing visas is the result of efforts to protect out national security. But in fact, it can have the opposite effect. In the long run, our security is enhanced – not diminished – by the exchange of people and ideas.

There are also economic consequences to the delays in visas. In my district in Los Angeles, both the entertainment and technology industries rely on the inflow of ideas from overseas to ensure that we remain at the forefront of innovation and competitiveness. Unfortunately, as we'll hear from our witnesses today, new security requirements that Congress mandated after September 11 have created a backlog in visa processing that is hindering the timely exchange of ideas and commerce through cultural events, education, and trade.

Today we will hear from the State Department about why it is taking so long to reduce the backlog of visa applications. And we will start the process of considering whether there are steps Congress should take to streamline the application and interview process.

I appreciate the appearance of our special guest, Yo-Yo Ma, who will testify about the effect of the visa delays on the performing arts, and our other witnesses, who will testify about the impact on business and technology innovation.

Chairman TOM DAVIS. Thank you very much.

Members will have 7 days to submit opening statements for the record. Any Members—Mr. Porter, do you want to make a statement?

Mr. PORTER. Yes, thank you, Mr. Chairman. I appreciate you having the hearing today and for our experts that are going to be testifying.

I come from the great State of Nevada, and it is a community that bases its whole economy or the bulk of its economy upon tourism and visitors, and I understand that since September 11th we had to endure a lot of changes, nationally and internationally, in how we handle travelers, how we handle visas, how we handle immigration. As we have that debate on the Hill as we speak, immigration creates additional challenges.

But I understand it is a balancing act. We want to make sure that we have the securest borders in the world. We want to make sure our communities are safe. We also need to find a way to find a balance.

As I talk to our folks in Nevada, where we have 40-some million visitors a year—a good share of those, probably close to 10 to 12 million are coming internationally—we want to make sure that if there is anything we can do as a community, we can help support finding a way to have visas approved faster. We want to make sure that the tourism base can help build our economy.

And tourism, believe it or not, is one, two, and three in every economy in the United States of America. In every State, it is the top one, two, and three in generating revenues. So we want to make sure that when we look at the visas we find a way to help streamline. I know that is what you are trying to do today.

But as I talk to some of our folks in Nevada, at McCarran Airport and other areas, there seems to be a problem with technology. So if there are some things we can do to help with technology, apparently some of the transmission lines and the capability and the ability to handle information is not available into some of our communities, purely from the technological side.

So, again, I appreciate the challenge that you have, and I know there is a major impact on arts and education and also on tourism and the resort and hospitality industry. So today is critical. I am here to encourage you and say thank you for what you are doing and offer our continued assistance to do what we can to make sure in that balance we have the safest and most secure borders in the world, but also allow those folks that want to be a part of and visit our great country to have access as quickly as possible.

So I thank you very much.

Chairman TOM DAVIS. Thank you, Mr. Porter.

Let me just note, our first panel is a very distinguished panel, comprised of the Honorable Tony Edson, who is the Deputy Assistant Secretary for Visa Services at the Department of State, and Mr. Jess Ford, the Director of International Affairs and Trade at the U.S. Government Accountability Office, who also happen to be constituents of mine in northern Virginia, which makes them even more distinguished. [Laughter.]

It is our policy that all witnesses be sworn before they testify, so if you would just rise and raise your right hands.

[Witnesses sworn.]
Chairman TOM DAVIS. Thank you.

**STATEMENTS OF TONY EDSON, DEPUTY ASSISTANT SECRETARY FOR VISA SERVICES, U.S. DEPARTMENT OF STATE;
AND JESS T. FORD, DIRECTOR, INTERNATIONAL AFFAIRS
AND TRADE, U.S. GOVERNMENT ACCOUNTABILITY OFFICE**

STATEMENT OF TONY EDSON

Mr. EDSON. Chairman Davis, distinguished Members, I appreciate this opportunity to discuss the efforts of the Department of State to balance border security objectives with our commitment to maintaining the openness of the United States to international visitors.

In the immediate aftermath of the attacks of September 11th, the U.S. Government moved quickly to shore up our Nation's border security and reassure American citizens and international visitors alike that our Nation was safe and secure. After conducting a top-to-bottom review of the visa process, we still work ceaselessly to make sure that we have in place as strong a shield as possible against those who do us harm.

It is our fundamental commitment to balancing our security needs with the openness of the United States that we strive to maintain. The Department of State faces a great challenge, however, in accommodating a mounting demand for visas while safeguarding our Nation's borders. The cases of India and China, in particular, highlight the special challenges posed by the enormous growth in workload for the Department's consular operations in those countries, as well as the unique strategic and economic opportunities offered to the United States by this increased visa demand.

Few relationships are more important to the United States than those with India and China. With educated, dynamic populations, growing economic power, and enormous strategic importance, both India and China are emerging as confident and assertive global and regional forces that increasingly perceive the United States as a partner in securing peace and stability in Asia.

As a result, people-to-people links between our respective countries are growing at an exponential rate, through business, tourism, and academic exchange. The links also include the flow of immigrants to the United States. India, for example, is the United States' second biggest source of legal immigration and naturalization after Mexico.

The Department of State is committed to ensuring that the visa application process, or perceptions of it, do not serve as impediments to legitimate travel to the United States. Our consular officers at 211 visa processing posts worldwide are dedicated to this goal. In order to adjudicate over 7 million visas annually, we have augmented the resources dedicated to processing visas, creating more than 515 consular positions since September 2001. The Department has enhanced the training of consular officers overseas in interviewing techniques and counterterrorism while continuing to also emphasize the need for efficiency and facilitation of travel for legitimate travelers.

We have invested heavily in automating the system for transmitting and receiving interagency clearances, with results that are incontrovertible. Now, once they are interviewed, 97 percent of all visa applicants around the world who are found qualified to receive visas get them within 1 or 2 days. For the 2.5 percent of applicants who, for national security reasons, are subject to additional screening, we have streamlined the process so that this small percentage of the overall number can still expect an answer promptly and predictably.

We are encouraged by the rise in non-immigrant visa applications as well as reports of steady increases in visitors to the United States under the Visa Waiver Program over the last year and hope that these developments signal a resurgence in international travel to this country.

The Bureau of Consular Affairs is committed to continuing to employ all means at our disposal, especially our leading-edge technology, to further improve the efficiency of visa processing without sacrificing national security. However, there are very real constraints, both legal and practical, on consular operations. In the post-September 11th era, Consular Affairs operates under a new set of legal and policy mandates legitimately designed to enhance national security in the visa possible. It is clear to us that improved management practices and incremental resource enhancements will not be sufficient to keep up with future demand for visas.

Accordingly, in addition to the near- and mid-term changes that the Department of State can accomplish internally, or in coordination with DHS and our other agency partners, we are looking further into the future. We recently conducted a strategic planning exercise we call the "Futures Study" to better prepare for visa demand over the next 10 years. The Bureau of Consular Affairs contracted a private firm to conduct a sophisticated analysis of non-immigrant visa demand initiators, or "drivers," and to apply the results of that analysis to projected demographic, commercial, economic, and political trends worldwide over this next decade. We are now using that study to make decisions about next steps in the visa process.

Mr. Chairman, members of the committee, I thank you again for inviting me to participate in this hearing and explain the Department's commitment to maintaining both Secure Borders and Open Doors. The Department's plans to achieve this balance are informed by our absolute commitment to supporting our important bilateral relationships and legitimate travel from around the world.

[The prepared statement of Mr. Edson follows:]

U.S. House of Representatives Committee on Government Reform**Testimony of****Deputy Assistant Secretary for Visa Services
Tony Edson****April 4, 2006
10:00 a.m.**

Chairman Davis, Ranking Member Waxman, distinguished members of the Committee:

I appreciate this opportunity to discuss the efforts of the Department of State and in particular, the Bureau of Consular Affairs, to meet our border security objectives while maintaining our commitment to the openness of the United States to international visitors.

Secretary of State Condoleezza Rice summarized this commitment when she stated during her confirmation hearings that, "Our interaction with the rest of the world must be a conversation, not a monologue, and America must remain open to visitors and workers and students from around the world. We do not and will not compromise our security standards, yet if our public diplomacy efforts are to succeed, we cannot close ourselves off from the rest of the world."

The Secretary's words give purpose to what the Department of State recognizes: that this nation is stronger when we remain true to our finest principals, to our history and our common ideals. America is a nation of immigrants, and has always welcomed visitors from all over the globe. We are stronger as a nation when we draw strength from the contributions of the world's best and brightest.

That goal must always be attended by our absolute commitment to the security of our nation. The context for today's U.S. visa policy is, quite simply, September 11, 2001. In the immediate aftermath of that tragedy, the U.S. Government moved quickly to shore up our nation's border security

and reassure American citizens and international visitors alike that our nation was safe and secure. After conducting a top-to-bottom review of visa procedures, we still work ceaselessly to make sure that we have in place as strong a shield as possible against those who would do us harm.

The Department of State and our partners at the Department of Homeland Security have a fundamental commitment to meeting our security needs while maintaining the *openness* of the United States. The Department is cognizant of the economic benefits to the United States generated by international visitors. Travel and tourism contributed \$104.8 billion to the U.S. economy in 2005. International students contributed \$13 billion in revenues to our nation's economy. Beyond the economic benefits, the Department of State understands that the United States is preeminent in business, academia and scientific research because we attract talented people from the far reaches of the globe.

Few relationships are more important to the United States than those with India and China. With educated, dynamic populations, growing economic power, and enormous strategic importance, both India and China are emerging as confident and assertive global and regional forces that increasingly perceive the United States as a partner in securing peace and stability in South Asia. India and China are key contributors of business, academic and research talent. Consular operations in these two nations continue to pose special challenges to the Department of State, as well as offer unique opportunities, due to their strategic and economic significance to the United States and the enormous growth in workload for the Department's consular operations in these nations.

As a result, people-to-people links between our two countries are growing at an exponential rate, through business, tourism, and academic exchange. The links also include the flow of immigrants to the United States, which in India's case is the United States second biggest source of legal immigration and naturalization. At the same time, more Americans travel and live abroad, especially in China. The impact of this growth has been directly felt in a rapidly increasing demand for immigrant and nonimmigrant visas, as well as for American Citizen Services.

As we address these trends with post-9/11 visa security requirements, we have witnessed skyrocketing consular workloads. Consequently, the Department's four consular posts in India and five in China have become some of the largest consular missions worldwide. The Department of State has devoted particular energy and resources in addressing the challenges facing posts in India and China, especially with regard to explosive nonimmigrant visa demand. I would like to discuss these efforts in some detail.

U.S. Mission India

The India posts have experienced tremendous annual growth in consular workload since the liberalization of India's economy in 1991. Shortly before September 11, 2001 the combined visa workload of the India posts ranked in the top five worldwide. Today, we estimate that nonimmigrant visa demand in India is second only to that in Mexico. Currently India is second only to Mexico as a leading source of legal migration and naturalizations and is far and away our leading source of temporary workers. According to the International Institute of Education's Open Doors study, there are 80,466 Indian students in the United States, almost 30 percent more than China, which ranks second in the number of full-time students. The Indian economy is growing at almost 8% annually and its middle class, which already exceeds the total population of the United States, is growing even faster. With a large number of student and temporary worker applications to review, the complexity and challenge of consular work in India is second to none. A rapidly transforming bilateral political, economic and commercial relationship, expanding U.S.-Indian anti-terrorism cooperation, a growing American citizen presence due to increased economic ties, and an increase in downstream immigration to the United States all argue for enhanced consular operations in India.

The past several years have seen a dramatic increase in the staffing and improvements to infrastructure of the consular sections across India. Since FY 2002, we have more than doubled the number of consular officers at our consular section in Chennai, southern India, where the bulk of the additional demand originates. Countrywide we have added 25 consular officers and 41 locally engaged staff. We are planning to add three more visa officer positions in Chennai, two in Mumbai and one each in New Delhi and Calcutta before the end of this fiscal year. We are also working to provide

all consular posts in India with additional TDY support to help them cope with this summer's visa demand.

We are in the advanced stages of planning for a new Consulate General building in Mumbai in 2008 and renovated consular sections in New Delhi and Calcutta. We are also working to open a new Consulate General in Hyderabad. The new Consulate General building in Mumbai will feature 46 service windows, a significant increase from the post's current 17 windows. We hope to have consular officers issuing visas in a new consulate in Hyderabad by as early as 2008, but it may be several years before it can have a significant impact on meeting visa demand. We also plan to renovate the consular section in Calcutta to give that post more usable space to adjudicate visas.

Last fall India launched a totally redesigned appointment/courier pass back system and started offsite machine-readable visa (MRV) fee collection. These new programs were designed to give the four India posts the ability to triage their caseload to provide early appointments to priority applicants. Priority applicants are those facing an emergency such as the death or sickness of a relative in the United States, all business travelers, students and temporary workers, particularly those needing to renew existing visas.

Because of the lengthy backlog in appointments under the old system, there was a necessary transition period that concluded February 28, 2006, when the last appointment made under the old system was seen. Under the new system each post makes only 60% to 70% of their anticipated capacity available to the public for new appointments at the end of their backlog for appointments. Starting at the end of February, each post began adding the remaining 30% to 40% of anticipated capacity in the form of appointment slots made available for priority applicants to book appointments within three weeks of the current date. These priority appointments, which usually number between 300 and 700 per day country wide, are currently being booked within two to three days in Chennai and New Delhi, but consular managers in India hope that within the next six weeks there will be consistent availability of priority appointments within three weeks at all four posts. There is already much more stable availability of priority appointments in Mumbai and Calcutta.

With Department approval, India has been designated as a single, countrywide consular district, which allows the India posts to shift officers

and/or workload to best match resources with demand. (This does not, however, mean that applicants may apply at any post in India, but rather that consular managers in India can take more creative approaches to balancing workload.) Under the new appointment system, the Minister Counselor for Consular Affairs in New Delhi designates which applicants may apply at another post with a shorter wait time. This is done through the on-line appointment system, which can be configured to offer a choice of appointment dates and places to selected appointment categories. This enables consular managers to make maximum use of available resources by shifting applications to where the most resources are available. Currently applicants from south India who work for companies registered with the Chennai Consulate's Business Executive Program (BEP) may also apply in New Delhi if they wish.

U.S. Mission China

The Department's consular facilities in China face many of the same challenges and opportunities as in India. China is a vast country with an enormous population. The U.S. mission to China is huge and complex, consisting of the Embassy in Beijing, and consulates in Shanghai, Guangzhou, Shenyang, and Chengdu. Over the past seven years, American staff has almost doubled to 467 and local staff tripled to 938.

The U.S. is engaged with China on an increasing number of strategic, political and economic fronts. China's recent economic reforms have produced a rapidly expanding economy and trade with the United States has increased dramatically. Increasing numbers of Chinese are able to afford travel to the United States, for business, tourism, professional development and education. China is the second largest source of foreign students studying in the United States, with 62,000 mainland Chinese students choosing to enroll in U.S. academic institutions.

Nonimmigrant visa application rates in China were dampened by 9/11 and the SARS outbreak. Although the level of applications is still 13.5 percent below what it was before 9/11, demand for visas is returning. Visa issuance in China increased in FY 2004 by 21 percent, and grew an additional 24 percent in FY 2005.

The Department is responding to the dramatic increase in visa demand with a combination of more efficient management practices and increases in

staffing and physical space in consular sections. In March 2004, Mission China established a user-pays call center to provide visa information and visa interview appointments for applicants from all over the country. Consular sections in Beijing and Guangzhou are returning issued visas via the Chinese national postal system; Shanghai will shortly follow suit. Together, these management initiatives allow consular staff to concentrate on border security issues and ease acute pressure on consular facilities, while providing better service to Chinese visa applicants.

On the diplomatic front, the Department persisted with lengthy negotiations that have resulted in the reciprocal extension of visa validity for business travelers and tourists between China and the United States. On January 15, 2005, the validity of business and tourist visas has been extended to twelve months, multiple-entry, reducing the number of annual applications required of regular Chinese travelers to the United States. Visa validity for students and exchange visitors was extended in summer 2005.

Meanwhile, Beijing, Shanghai, and Guangzhou have all worked with local American Chambers of Commerce to implement programs similar to the India BEP program, facilitating the issuance of business visas to employees, and in some cases customers and clients, of American companies. In CY 2004, Beijing processed over 6,200 American Chamber of Commerce-related visa applicants with a 95 percent issuance rate; the number rose to 10,000 in FY 2005. Shanghai has processed a similar number of business visas in 2005. Seventeen large, non-American multinationals such as BP, Nortel, Nokia, and Samsung have also been invited to participate in this business facilitation program. The Department's ability to meet workload demands is limited by other personnel resources and physical plant requirements. Nine new consular adjudicating officer positions were created for China in FY 2004 and FY 2005. During that same period, an additional five new consular officers replaced the consular associates who were adjudicating visas. The Bureau of Consular Affairs has preliminary plans for six more officer positions in FY 2006, and is currently discussing the best distribution among the six consular sections in China.

Embassy Beijing and the U.S. consulates in China have made significant strides forward with regard to facilities. The Consulate in Guangzhou, which also processes all immigrant visas for China, moved into new consular facilities in August 2005. The new facility offers four times the office space of the old site, boasting forty interview windows that have been

put to immediate use to meet backlogs in non-immigrant and immigrant visa processing. The move is a temporary solution until a new consulate compound is completed, but a great improvement over the previous site in a hotel annex, which offered only 13 interviewing windows. With regard to staffing, the Bureau of Consular Affairs has provided additional temporary support to the immigrant visa section in Guangzhou and is sending a “swat team” in April 2006 to enable the post to adjudicate the most urgent cases.

The Department also made physical improvements to the existing consular sections in Beijing and Shenyang, including additional interview windows. Nevertheless, Shanghai’s two-year old new facilities are already near capacity and the consular section in Beijing will continue to suffer from tight working spaces until the embassy moves into a completely new building in 2008. The Embassy and Consulates in China are currently working at full capacity to serve the visa needs of travelers from China and appointment wait times in China range from two weeks to a month.

The Future

At all levels, the Department’s representatives in India and China are involved in an aggressive public outreach campaign to communicate to the governments of India and China, and to the public about the improvements to visa processing in each country. The bottom line is that the Department of State is committed to ensuring that the visa application process, or perceptions about it, does not serve as an impediment to legitimate travel to the United States.

In fact, consular officers at 211 visa-adjudicating posts worldwide are dedicated to this goal. In order to adjudicate over 7 million visa applications annually, the Department of State has augmented the resources dedicated to processing visas, creating more than 515 consular positions since September 2001. The Department has enhanced the training of consular officers overseas in interviewing techniques and counterterrorism, while continuing to also emphasize the need for efficiency and the facilitation of travel by legitimate travelers. The Department has invested heavily in automating the system for transmitting and receiving interagency security clearances.

The results are incontrovertible. Now, 97 percent of all visa applicants around the world who are found qualified to receive visas get them in one or two days from the day they are interviewed. For the two-and-a-half percent

of visa applicants who, for national security reasons, are subject to additional screening, the Department has streamlined the process so that even this small percentage of the overall number of applicants can expect an answer promptly.

The Department of State is encouraged by reports from consular sections around the world of a rise in nonimmigrant visa applications, as well as those documenting steady increases in U.S. visitation utilizing the Visa Waiver Program over the last year. The Department hopes that these developments signal a resurgence in nonimmigrant visa applications worldwide.

In preparation for additional growth in workload, we are exploring the possibility of replacing current, paper versions of the visa application forms with a completely electronic, interactive model. The Bureau of Consular Affairs already offers an electronic visa application form to facilitate data entry. Implementing an interactive online application would allow the Bureau additional scope and flexibility in conducting security namechecks, fraud investigations and biometrics checks in advance of a visa interview, further streamlining the application process.

I believe the Bureau of Consular Affairs has acted with ingenuity and resolve to apply our experience and resources to re-engineer visa processing to the extent we are able under existing legislation. The result of these efforts is that we have improved the efficiency and integrity of the nonimmigrant visa process and have reduced significantly delays and uncertainty about visa processing. The Bureau of Consular Affairs is committed to continuing to employ all means at our disposal, especially our leading-edge technology, to further improve the efficiency of visa processing without sacrificing national security.

There are very real constraints, both legal and practical, on consular operations. In the post 9-11 era, Consular Affairs operates under a new set of legal and policy mandates designed to enhance national security in the visa process. It is clear that improved management practices and incremental resource enhancements will not be sufficient to keep up with future demand for nonimmigrant visas.

Accordingly, in addition to the near- and mid-term changes that the Department of State can accomplish internally, or in coordination with our

interagency partners, we are looking further into the future. The Bureau of Consular Affairs has conducted a methodical approach to strategic planning we call the "Futures Study." Through this study, the Bureau has attempted to determine the extent and composition of anticipated explosive growth in visa demand during the decade from 2007 to 2017 so that we can develop and evaluate options for meeting the demand. The Bureau contracted a private firm to conduct a first-ever sophisticated analysis of nonimmigrant visa demand initiators or "drivers," and to apply the results of that analysis to projected demographic, commercial, economic and political trends worldwide over the target time period.

Mr. Chairman, members of the Committee, I thank you for inviting me to participate in this hearing and explain the Department's commitment to maintaining both "Secure Borders" and "Open Doors." The Department's plans to achieve this goal are informed by our absolute commitment to supporting our important relationships with India and China, as well as legitimate travel from all over the world.

I look forward to answering your questions.

Chairman TOM DAVIS. Thank you very much.
Mr. Ford.

STATEMENT OF JESS FORD

Mr. FORD. Mr. Chairman, members of the committee, I am pleased to be here today to discuss GAO's observations on delays in the non-immigrant visa process. In deciding to approve or deny a visa application, the Department of State's consular officers at 211 visa-issuing posts overseas are on the front line of defense in protecting the United States against potential terrorists and others whose entry would likely be harmful to U.S. national security. But consular officials must balance this security responsibility against the need to facilitate legitimate travel. Congress, State, and the Department of Homeland Security have initiated a series of changes since the September 11th attacks to enhance border security policies and procedures. These changes have added to the complexity of consular officers' workload. They have also, in turn, contributed to delays facing foreign citizens at some posts who are seeking visas for travel to the United States. For example, in February 2004, we reported that applicants that faced delays when scheduling appointments for visa interviews occurred in both China and in India.

Although wait times in China have improved in recent months, applicants in India continue to face long delays. Moreover, worldwide, nine posts reported maximum wait times of 90 days or more in February 2006. In light of the increased workload per visa applicant due to additional border security requirements, we recommended that the State Department reassess its overall staffing requirements.

Since September 11, 2001, applicants have faced extensive wait times for visas at some posts. According to consular officials, posts that consistently have wait times in excess of 30 days or longer are considered to be a management problem. State's data show that between September 2005 and February 2006, 97 posts reported maximum wait times in excess of 30 days. At 20 posts, the reported wait times were in excess of 30 days for the entire 6-month period. Further, in February 2006, nine posts reported wait times in excess of 90 days. In Chennai, India, applicants applying for visas faced an average reported wait time during this 6-month period of 126 days.

Several factors have contributed to delays for visa interview appointments at some consular posts. New policies and procedures implemented since the September 11th attacks have strengthened the security of the visa process. However, these new requirements have increased consular workload and exacerbated delays. For example, consular officers are now required to interview virtually all visa applicants, and some applicants face additional delays due to security checks.

Additional demand for visas is another factor affecting delays. This is especially true for countries with significant economic growth, such as India and China.

Inadequate embassy facilities at some posts also limit the number of applicants that can be processed each day. Several posts reported problems with work space, waiting areas, inadequate num-

bers of security guards and security devices to handle the flow of applicants. For example, our embassy in Paris, France, does not have enough adjudication windows to handle current demand. The State Department has not had adequate numbers of consular staff to meet visa demand at some of its posts. We reported that as of September 30, 2005, 26 percent of mid-level supervisory consular positions were either vacant or staffed by junior officers. Since 2002, we have recommended that the State Department perform a fundamental reassessment of staffing requirements for visa operations in light of its likely increase in workload.

In September 2005, we again recommended that the State Department conduct a worldwide comprehensive assessment of its staffing requirements. While State has increased the hiring of consular officials, we continue to see a need for such an assessment to ensure that sufficient staff with the necessary skills are at the key posts in order to alleviate problems with processing delays. Staffing needs should be based on clear processing and workload standards and long-term terms.

State should rigorously and systematically determine priority positions that must be filled worldwide based on likely demand and develop contingency plans for emerging increasing applicant demand. We recommended that the State Department report to the Congress on the actions that it has taken to reduce these vulnerabilities.

The visa process presents a balance between facilitating legitimate travel and identifying those who might do harm to the United States. The State Department, in coordination with other agencies, has made substantial improvements in the visa process to strengthen it as a national security tool. However, given the large responsibility placed on consular officers, particularly entry-level officers, it is critical to provide consular posts with the resources necessary for them to be effective. Extensive delays for visa interview appointments point to the need for State to perform a rigorous assessment of staffing requirements to achieve its goal of having the right people with the right skills in the right places.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions.

[The prepared statement of Mr. Ford follows:]

United States Government Accountability Office

GAO

Testimony
Before the Committee on Government
Reform, House of Representatives

For Release on Delivery
Expected at 10 a.m. EDT
Tuesday, April 4, 2006

BORDER SECURITY

Reassessment of Consular Resource Requirements Could Help Address Visa Delays

Statement of Jess T. Ford, Director
International Affairs and Trade



GAO-06-542T



Highlights of GAO-06-542T, a testimony before the Committee on Government Reform, House of Representatives

Why GAO Did This Study

In deciding to approve or deny a visa application, the Department of State's (State) consular officers are on the front line of defense in protecting the United States against those who seek to harm U.S. interests. To increase border security following the September 11 attacks, Congress, State, and the Department of Homeland Security initiated a series of changes to border security policies and procedures. These changes have added to the complexity of consular workload. But consular officers must balance this security responsibility against the need to facilitate legitimate travel. In recent years, GAO has issued a series of reports on the visa process. This statement discusses (1) wait times for visas, (2) factors that affect wait times, and (3) GAO's recent work on consular staffing.

What GAO Recommends

We recommended in October 2002 and again in September 2005 that State reassess its consular staffing requirements. In commenting on a draft of our September 2005 report, State disagreed with our recommendation that it prepare a plan to address consular requirements. In light of the increased workload due to additional border security requirements and ongoing staffing shortages and processing delays at some posts, we continue to urge State to fully assess its resource needs to ensure it has the right people at key posts.

www.gao.gov/cgi-bin/getrpt?GAO-06-542T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Jess Ford at (202) 512-4128 or fordj@gao.gov.

April 4, 2006

BORDER SECURITY

Reassessment of Consular Resource Requirements Could Help Address Visa Delays

What GAO Found

As a result of changes since September 11, 2001, aimed at strengthening visa policies and procedures, applicants have faced extensive wait times for visas at some posts. According to consular officials, posts that consistently have wait times of 30 days or longer for interview appointments may have a resource problem. During a recent 6-month period, 97 of State's 211 visa-issuing posts reported maximum wait times of 30 or more days in at least one month; at 20 posts, the reported wait times were in excess of 30 days for this entire 6-month period. Further, in February 2006, 9 posts reported wait times in excess of 90 days.

Several factors have contributed to these delays at some consular posts. For example, Congress, State, and the Department of Homeland Security have initiated new policies and procedures since the September 11 attacks to strengthen the security of the visa process; however, these new requirements have increased consular workload and exacerbated delays. Additionally, some applicants have faced additional delays because of special security checks for national security concerns. Other factors, such as resurgence in visa demand and ongoing embassy facility limitations, could continue to affect wait times.

We recently reported that State had not conducted a worldwide, comprehensive assessment of staffing requirements for visa operations. While State has increased hiring of consular officers, there is a need for such an assessment to ensure that State has sufficient staff at key consular posts, particularly in light of the visa processing delays at some posts.

Consular Posts with Maximum Reported Wait Times for Temporary Business and Tourism Visa Interview Appointments in Excess of 90 Days, February 2006

Post	Maximum Wait Time in Days
Chennai, India	168
Ciudad Juarez, Mexico	92
Havana, Cuba	129
Mexico City, Mexico	134
Mumbai, India	154
New Delhi, India	91
Paris, France	116
Port Au Prince, Haiti	167
Rio de Janeiro, Brazil	140

Source: Department of State

Note: These data are based on reports from overseas consular posts to the Consular Affairs Bureau in Washington, D.C. According to consular officials, in cases where posts report wait time data more than once in a given month, State's data are the maximum wait time reported that month.

April 4, 2006

Mr. Chairman and Members of the Committee:

I am pleased to be here to discuss GAO's observations on delays in the nonimmigrant visa process.¹ In deciding to approve or deny a visa application, the Department of State's (State) consular officers at 211 visa-issuing posts overseas are on the front line of defense in protecting the United States against potential terrorists and others whose entry would likely be harmful to U.S. national interests. But consular officers must balance this security responsibility against the need to facilitate legitimate travel. Congress, State, and the Department of Homeland Security (DHS) have initiated a series of changes since the September 11 attacks to enhance border security policies and procedures. These changes have added to the complexity of consular officers' workload. They have also, in turn, contributed to the delays facing foreign citizens at some posts who are seeking visas for travel to the United States. For example, in February 2004, we reported that applicants had faced delays when scheduling appointments for visa interviews at consular posts in China and India.² Although wait times in China have improved in recent months, applicants in India continue to face long delays. Moreover, worldwide, nine posts reported maximum wait times of 90 or more days in February 2006. In light of the increased workload per visa applicant due to additional border security requirements, we recommended in October 2002 and again in September 2005³ that State reassess its staffing requirements.

Today I will discuss (1) wait times facing visa applicants, (2) factors that affect wait times, and (3) our recent work on consular staffing concerns. My statement covers a

¹The United States also grants visas to people who intend to immigrate to the United States. In this testimony, the term "visa" refers to nonimmigrant visas only. Persons who may require nonimmigrant visas include temporary business travelers and tourists.

²See GAO, *Border Security: Improvements Needed to Reduce Time Taken to Adjudicate Visas for Science Students and Scholars*, GAO-04-371 (Washington, D.C.: Feb. 25, 2004).

³See GAO, *Border Security: Strengthened Visa Process Would Benefit From Improvements in Staffing and Information Sharing*, GAO-05-859 (Washington, D.C.: Sept. 13, 2005), and GAO, *Border Security: Visa Process Should Be Strengthened as an Antiterrorism Tool*, GAO-03-132NI (Washington, D.C.: Oct. 21, 2002).

DRAFT

series of reports that we have issued regarding the visa process and related areas. Over the course of our work for these reports, we have reviewed relevant legislation and agency documents, interviewed State's consular and human resource officials in Washington, and observed visa operations and interviewed consular officials at more than 20 consular posts. In addition, in 2005, we interviewed consular staff at 25 overseas posts regarding issues such as visa policies and procedures, staffing, and training. Our work was conducted in accordance with generally accepted government auditing standards (see appendix I for a list of GAO reports).

Summary

Since September 11, 2001, applicants have faced extensive wait times for visas at some posts. According to consular officials, posts that consistently have wait times for visa interview appointments of 30 days or longer may have a resource or management problem. State's data show that between September 2005 and February 2006, 97 posts reported maximum wait times of 30 or more days in at least one month; at 20 posts, the reported wait times were in excess of 30 days for this entire 6-month period.⁴ Further, in February 2006, nine posts reported wait times in excess of 90 days. In Chennai, India, applicants applying for visas faced an average reported wait time of 126 days over this 6-month period.

Several factors have contributed to delays for visa interview appointments at some consular posts. For example, new policies and procedures implemented since the September 11 attacks have strengthened the security of the visa process; however, these new requirements have increased consular workload and exacerbated delays. For example, consular officers are now required to interview virtually all visa applicants. Additionally, some applicants have faced additional delays because of special security checks. Other factors, such as resurgence in visa demand, and ongoing consular facility limitations, could continue to affect wait times.

⁴According to consular officials, in cases where posts report wait time data more than once in a given month, State's data are the maximum wait time reported that month.

DRAFT

In September 2005, we reported that State had not conducted a worldwide, comprehensive assessment of staffing requirements for visa operations. In commenting on a draft of that report, State argued that it had a staffing plan. While State has increased hiring of consular officers, we continue to see a need for such an assessment to ensure that State has sufficient staff with the necessary skills at key consular posts, particularly in light of the visa processing delays at some posts.

Background

The 1952 Immigration and Nationality Act, as amended, is the primary body of law governing immigration and visa operations.⁵ The Homeland Security Act of 2002 generally grants DHS exclusive authority to issue regulations on, administer, and enforce the Immigration and Nationality Act and all other immigration and nationality laws relating to the functions of U.S. consular officers in connection with the granting or denial of visas.⁶ As we reported in July 2005, the act also authorizes DHS to, among other things, assign employees to any consular post to review individual visa applications and provide expert advice and training to consular officers regarding specific security threats related to the visa process.⁷ A subsequent September 2003 Memorandum of Understanding between State and DHS further outlines the responsibilities of each agency with respect to visa issuance. DHS is responsible for establishing visa policy, reviewing implementation of the policy, and providing additional direction. State manages the visa process, as well as the consular corps and its functions at 211 visa-issuing posts overseas.

⁵P.L. 82-414, 8 U.S.C. § 1101 et seq.

⁶State retains authority in certain circumstances, as outlined in the act. See P.L. 107-296.

⁷The act also requires that DHS on-site personnel in Saudi Arabia review all visa applications prior to adjudication by consular officers. P.L. 107-296, Sec. 428(e) and Sec. 428(j). See GAO, *Border Security: Actions Needed to Strengthen Management of Department of Homeland Security's Visa Security Program*, GAO-05-801 (Washington, D.C.: July 29, 2005).

The process for determining who will be issued or refused a visa contains several steps, including documentation reviews, in-person interviews, collection of biometrics⁸ (fingerprints), and cross-referencing an applicant's name against the Consular Lookout and Support System—State's name-check database that posts use to access critical information for visa adjudication. In some cases, a consular officer may determine the need for a Security Advisory Opinion, which is a response from Washington on whether to issue a visa to the applicant. Depending on a post's applicant pool and the number of visa applications that a post receives, each stage of the visa process varies in length.

Applicants May Face Extensive Wait Times for Visa Interviews

According to consular officials, posts that consistently have wait times for visa interview appointments of 30 days or longer may have a resource or management problem. To monitor posts' workload, State requires that posts report, on a weekly basis, the wait times for applicant interviews.⁹ As of March 2006, State's data showed that between September 2005 and February 2006, 97 posts reported maximum wait times of 30 or more days in at least one month; at 20 posts, the reported wait times were in excess of 30 days for the entire 6-month period. Moreover, in February 2006, nine posts reported wait times in excess of 90 days (see table 1).

⁸Biometrics is a wide range of technologies that can be used to verify a person's identity by measuring and analyzing that person's physiological characteristics. For the purposes of this testimony, "biometric identifiers" refers to fingerprints. See GAO, *Technology Assessment: Using Biometrics for Border Security*, GAO-03-174 (Washington, D.C.: Nov. 14, 2002).

⁹Posts are asked to provide the appointment wait time applicable to the majority of applicants applying for a given category of visas on a given day, and not an average wait time. In September 2005, our analysis of State's data on reported wait times revealed significant numbers of posts that did not report on a weekly basis during the 6-month period we reviewed. Therefore, the data were not sufficiently reliable to fully determine how many posts had wait times in excess of 30 days. We recommended that State ensure that consular chiefs update interview wait time data on a weekly basis. For the purposes of this statement, the data are sufficiently reliable to broadly indicate that delays for visa appointments are an ongoing concern.

DRAFT

Table 1: Consular Posts with Maximum Reported Wait Times for Temporary Business and Tourism Visa Interview Appointments in Excess of 90 Days, February 2006

Post	Maximum Wait Time in Days
Chennai, India	168
Ciudad Juarez, Mexico	92
Havana, Cuba	129
Mexico City, Mexico	134
Mumbai, India	154
New Delhi, India	91
Paris, France	116
Port Au Prince, Haiti	167
Rio de Janeiro, Brazil	140

Source: Department of State.

According to the Assistant Secretary of State for Consular Affairs, managing consular workload is a major issue for the department, particularly at posts in India and China where volume is expected to continue to increase. In February 2004,¹⁰ we reported that officials at some of the posts we visited in India and China indicated they did not have enough space and staffing resources to handle interview demands and the new visa requirements. According to consular officers, during the 2003 summer months, the wait for visa interviews was as long as 12 weeks in Chennai, India. In China, applicants at one post were facing waits of about 5 to 6 weeks during our September 2003 visit due to an imbalance between demand for visas and the number of consular officers available to interview applicants and staff to answer phones. Although these posts have undertaken initiatives to shorten the wait times, such as using temporary duty help and instituting longer interviewing hours, delays for visa interviews remain an ongoing concern. For example, the U.S. embassy in New Delhi instituted a new appointment system in October 2005, which resulted in immediate, additional interviewing capacity at post, according to consular officials. However, reported wait times in New Delhi had risen above 90 days by February 2006 (see table 2).

¹⁰GAO-04-371.

DRAFT

Table 2: Maximum Reported Wait Time in Days for Temporary Business and Tourism Visa Interview Appointments at Posts in India, September 2005 through February 2006

Post	September	October	November	December	January	February
India						
Calcutta	111	96	101	94	94	86
Chennai (Madras)	168	121	122	84	123	136
Mumbai (Bombay)	79	Not reported	70	127	134	154
New Delhi	140	9	24	40	74	91

Source: Department of State.

At posts in China, Consular Affairs indicated that improvements in facilities and staff increases have helped to lessen wait times for interviews. However, consular officials have acknowledged that demand for visas at posts in China is likely to rise and continue to affect wait times in the future. Table 3 shows recent wait times for visa appointments in China.

Table 3: Maximum Reported Wait Time in Days for Temporary Business and Tourism Visa Interview Appointments at Posts in China, September 2005 through February 2006

Post	September	October	November	December	January	February
China						
Beijing	36	21	25	34	26	18
Guangzhou	49	30	17	18	Not reported	1
Shanghai	58	28	30	36	33	19
Shenyang	35	12	2	7	6	8

Source: Department of State.

Officials, Groups Have Noted Impact of Visa Delays on U.S. Scientific and Business Interests

Although we have not attempted to measure the impact of the time it takes to adjudicate a visa, we reported in February 2004 that consular officials and representatives of several higher education, scientific, and governmental organizations reported that visa delays could be detrimental to the scientific interests of the United States. Although these officials and representatives provided numerous individual examples of the

DRAFT

consequences of visa delays, they were unable to measure the total impact of such lengthy waits. For example, in September 2003, Department of Energy officials in Moscow explained that former Soviet Union scientists have found it extremely difficult to travel to the United States to participate in U.S. government-sponsored conferences and exchanges that are critical to nonproliferation efforts. Business groups have also expressed concern about the impact of visa delays. For example, officials from the American Chamber of Commerce and other industry executives have testified numerous times in recent years about the problem of delayed entry for foreign nationals traveling to the United States for legitimate business purposes. In addition, on June 2, 2004, a coalition of eight industry associations published a study estimating that U.S. companies suffered losses totaling \$30 billion from July 2002 to March 2004 due to delays and denials in the processing of business visas.¹¹ Beijing's Deputy Chief of Mission and consular officials at the embassy and consulates in China also stated that visa delays could have a negative impact on student and scholar exchanges.

Several Factors Contribute to Wait Times for Visas

Visa delays are a longstanding problem. However, since September 2001, several factors have exacerbated wait times for visas. First, changes to visa policies and procedures have resulted in additional workload for consular officers. Second, while not reaching pre-2001 levels, visa application volume has increased in recent years. Third, many posts face facility constraints, which limit the extent to which posts can increase visa processing. Finally, staffing shortfalls also affect the length of time that applicants must wait for a visa.

Visa Policy and Procedural Changes Have Increased Consular Workload

Since the September 11 attacks, Congress, State, and DHS have initiated a series of changes to policies and procedures designed to enhance border security. These changes

¹¹The Santangelo Group, *Do Visa Delays Hurt U.S. Business?* (Washington, D.C.: June 2, 2004).

DRAFT

have added to the complexity of consular officers' workload and, in turn, exacerbated State's resource constraints. These changes include the following:

- Consular officers must interview virtually all visa applicants; prior to August 2003, they could routinely waive interviews.
- Since October 2004, consular officers are required to scan foreign nationals' right and left index fingers and clear the fingerprints through the DHS Automated Biometric Identification System before an applicant can receive a visa.¹²
- Some responsibilities previously delegated to Foreign Service nationals¹³ and consular associates¹⁴ have been transferred to consular officers. For example, consular associates are no longer authorized to adjudicate visas.
- As previously mentioned, some applicants have faced additional delays due to various special security checks, or Security Advisory Opinions. For example, foreign science students and scholars, who may pose a threat to our national security by illegally transferring sensitive technology, may be subject to security checks known as Visas Mantis. In the spring of 2003, it took an average of 67 days for Visas Mantis checks to be processed and for State to notify consular posts of

¹²The Automated Biometric Identification System is a DHS database that includes some 5 million people who may be ineligible to receive a visa. For example, the Automated Biometric Identification System data includes, among other records, FBI information on all known and suspected terrorists, selected wanted persons, and previous criminal histories for individuals from high-risk countries. See GAO, *Border Security: State Department Rollout of Biometric Visas on Schedule, but Guidance Is Lagging*, GAO-04-1001 (Washington, D.C.: Sept. 9, 2004).

¹³Foreign Service national employees are non-U.S. citizens employed at a U.S. Foreign Service post by a U.S. government agency.

¹⁴Consular associates are U.S. citizens and relatives of U.S. government direct-hire employees overseas who, following successful completion of the required Basic Consular Course, are hired by the Consular Section at their post. Beginning in fiscal year 2002, State began a 3-year transition to remove adjudication functions from consular associates and provide additional consular officers.

DRAFT

the results. Since then, State and other agencies have taken actions which have reduced delays to about 15 days for these checks.¹⁵

In addition, on July 13, 2005, the Secretary of Homeland Security announced that the U.S. government had adopted a 10-print standard for biometric collection for visas. In January 2006, the director of the U.S. Visitor and Immigrant Status Indicator Technology program¹⁶ testified that moving to a 10-fingerscan standard from a 2-print standard would allow the United States to be able to identify visa applicants and visitors with even greater accuracy. In February 2006, State reported that it plans to complete pilot testing and procurement of the 10-print equipment to ensure that all visa-issuing posts have collection capability by the end of fiscal year 2007. Requiring applicants to submit 10-prints could add more time to the applicant's interview and potentially delay visa processing.

To help mitigate the adverse impact of these policy and procedural changes on wait times, State has taken actions to help maintain the right balance between promoting security and facilitating travel. For example, while we have not assessed the impact of these actions, all overseas posts have established procedures to expedite the processing of business visas and are working closely with local American Chambers of Commerce in more than 100 countries to expedite the visa process for bona fide business travelers. In July 2005, State also established a Business Visa Center to facilitate visa application procedures for U.S. businesses in conjunction with upcoming travel or events. Regarding foreign students, in February 2006, State announced that it has extended the length of time foreign students may be issued student visas, which will allow some students to apply up to 120 days before their academic program start date (as compared

¹⁵GAO, *Border Security: Streamlined Visas Mantis Program Has Lowered Burden on Foreign Science Students and Scholars, but Further Refinements Needed*, GAO-05-198 (Washington, D.C.: Feb. 18, 2005).

¹⁶US-VISIT is a government wide program to collect, maintain, and share information on foreign nationals and better control and monitor the entry, visa status, and exit of visitors. Under the program, most foreign visitors are required to submit to fingerprint scans of their right and left index finger and have a digital photograph taken upon arrival at U.S. ports of entry. As a complement to US-VISIT, State implemented the Biometric Visa Program at all visa-issuing overseas consulates on October 26, 2004. See Section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002, P.L. 107-173.

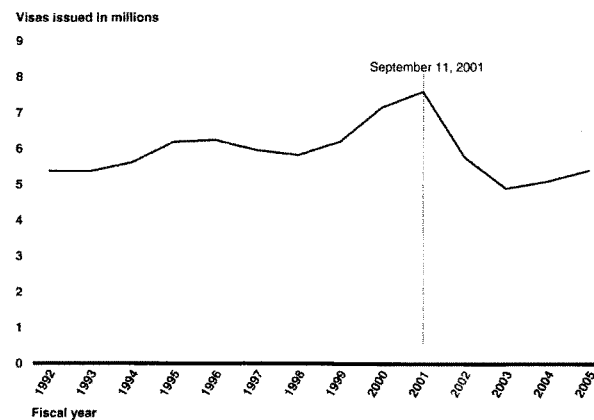
DRAFT

to 90 days under previous regulations).¹⁷ According to State, U.S. embassies and consulates also have established special, expedited visa interviews for prospective foreign students.

Increasing Visa Demand Strains Consular Resources

While not returning to levels prior to the September 11 attacks, visa issuance rates increased in fiscal years 2004 and 2005, according to State's data (see fig. 1). Should application volume continue to increase, State has acknowledged that additional management actions will be necessary to ensure that visa applications are processed in a timely manner.

Figure 1: Worldwide Visa Issuance Volume, Fiscal Years 1992 through 2005



Source: Department of State.

Note: According to State, the data for fiscal year 2005 are preliminary as of November 23, 2005, and are subject to change.

In the future, we believe that increased global trade and economic growth will likely result in increased demand for visas, particularly in certain countries.

¹⁷These changes apply only to initial-entry students.

Facilities Constraints Limit State's Options for Addressing Visa Delays

Embassy facilities at some posts limit the number of visa applications that are processed each day and make it difficult to keep up with visa demand. In our September 2005 report, we noted that many visa chiefs we interviewed reported problems with their facilities. For example, at 14 of the 25 posts covered in our survey, consular officials rated their workspace as below average, and 40 percent reported that applicants' waiting rooms were below average. In addition, due to overcrowded waiting rooms at four of the eight posts we visited, we observed visa applicants waiting for their interviews outside or in adjacent hallways. Moreover, a limited number of security guards and screening devices, as well as limited physical space, often create bottlenecks at the facilities' security checkpoints. In March 2006, we observed visa facilities in Paris, France, and noted that there are insufficient adjudicating windows to meet visa demand. A senior consular official acknowledged that many consular facilities are located in run-down buildings with insufficient adjudicating windows and waiting rooms. In fiscal year 2003, Congress directed the Overseas Building Operations Bureau to begin a 3-year Consular Workspace Improvement Initiative to improve the overall working environment for consular officers.¹⁸ In fiscal years 2003 and 2004, State obligated \$10.2 million to 79 workspace improvement projects at 68 posts. However, according to a senior consular official, these funds are being used to provide temporary solutions at posts that may require a new embassy as part of State's multibillion-dollar embassy construction program. It may take years before some posts' facilities needs are fully addressed.

To have sufficient resources to manage the demand for visas and minimize the time applicants must wait, State may need to consider establishing new visa-issuing posts. Indeed, in its 2005 inspection of the Embassy in New Delhi, for example, the Office of the Inspector General stated that State should establish a permanent consulate in Hyderabad, India, by no later than 2008 in light of the need for expanded visa processing facilities due to increased application volume. In March 2006, the President announced

¹⁸See House Conference Report 108-10, attached to P.L. 108-7, Consolidated Appropriations Resolution, 2003.

that the United States would open a new consulate; however, it is unclear when this may happen.

Staffing Shortfalls Impact the Effectiveness of Visa Operations

In September 2005, we reported that State faced staffing shortfalls in consular positions—a key factor affecting the effectiveness of the visa process and the length of time applicants must wait for visas. As of April 30, 2005, we found that 26 percent of midlevel consular positions were either vacant or filled by an entry-level officer.¹⁹ In addition, almost three-quarters of the vacant positions were at the FS-03 level—midlevel officers who generally supervise entry-level staff. Consular officials attribute this shortfall to low hiring levels prior to the Diplomatic Readiness Initiative²⁰ and the necessary expansion of entry-level positions to accommodate increasing workload requirements after September 11, 2001. We believe experienced supervision at visa-issuing posts is important to avoiding visa delays. For example, experienced officers may provide guidance to entry-level officers on ways to expedite visa processing, including advising staff on when special security checks are required.

During our February 2005 visits to Riyadh and Jeddah, Saudi Arabia, and Cairo, Egypt, we observed that the consular sections were staffed with entry-level officers on their first assignment with no permanent midlevel visa chief to provide supervision and guidance. Although these posts had other mid- or seniorlevel consular officers, their availability on visa issues was limited because of their additional responsibilities. For example, the head of the visa section in Jeddah was responsible for managing the entire section, as well as services for American citizens due to a midlevel vacancy in that

¹⁹Foreign Service officers are assigned a grade, which ranges from FS-06 to FS-01, corresponding from entry-level to midlevel, respectively. According to State, officers at grades 6 through 4 are classified as junior officers; 3 through 1 are midlevel officers. In addition, members of the senior Foreign Service are senior officers. In this testimony, we refer to them as entry-level, midlevel, and senior-level officers.

²⁰In fiscal year 2002, State launched the Diplomatic Readiness Initiative—a 3-year effort to ensure global diplomatic readiness—through which State reported that it hired 834 Foreign Service officers. In addition, the Intelligence Reform and Terrorism Prevention Act of 2004 authorized the hiring of an additional 150 consular officers per year for fiscal years 2006 through 2009. See P.L. 108-458 § 7203.

DRAFT

position. At the time of our visit, the Riyadh Embassy did not have a midlevel visa chief. Similarly, in Cairo, there was no permanent midlevel supervisor between the winter of 2004 and the summer of 2005, and Consular Affairs used five temporary staff on a rotating basis during this period to serve in this capacity. Entry-level officers we spoke with stated that due to the constant turnover, the temporary supervisors were unable to assist them adequately. At the U.S. consulate in Jeddah, entry-level officers expressed concern about the lack of a midlevel supervisor. More recently, during a February 2006 visits to posts in Nigeria and China, we found similar consular vacancies. For example, first tour, entry-level officers in Chengdu and Shenyang, China, are filling midlevel consular positions.

We have reported on numerous occasions that factors such as staffing shortages have contributed to long wait times for visas at some posts. Since 2002, State has received funding to address these shortfalls. Through the Diplomatic Readiness Initiative and other sources, State increased the number of Foreign Service officer consular positions by 364, from 1,037 in fiscal year 2002 to 1,401 in fiscal year 2005. However, while we have not studied this issue, the disparity in wait times among posts may indicate the need to reallocate positions to address the growing consular demand and long wait times at some posts.

In the event of staffing shortfalls, State has mechanisms for requesting increased staff resources. For example, if the Consular Affairs Bureau identifies a need for additional staff in headquarters or overseas, it may request that the Human Resources Bureau establish new positions. In addition, posts can also describe their needs for additional positions through their consular package—a report submitted annually to the Consular Affairs Bureau that details workload statistics and staffing requirements, among other things. For example, in December 2004, during the course of our work, the consular section in Riyadh reported to Washington that there was an immediate need to create a midlevel visa chief position at post, and consular officials worked with human resource officials to create this position, which, according to State officials, would be filled by summer 2005.

State Has Not Assessed Overall Consular Resource Needs

State's current assignment process does not guarantee that all authorized positions will be filled, particularly at hardship posts. Historically, State has rarely directed its employees to serve in locations for which they have not bid on a position, including hardship posts or locations of strategic importance to the United States, due to concerns that such staff may be more apt to have poor morale or be less productive.²¹ Due to State's decision to not force assignments, along with the limited amount of midlevel officers available to apply for them,²² important positions may remain vacant.

According to a deputy assistant secretary for human resources, Consular Affairs can prioritize those positions that require immediate staffing to ensure that officers are assigned to fill critical staffing gaps. For example, Consular Affairs could choose not to advertise certain positions of lesser priority during an annual assignment cycle. However, senior Consular Affairs officials acknowledged that they rarely do this. According to these officials, Consular Affairs does not have direct control over the filling of all consular positions and can often face resistance from regional bureaus and chiefs of mission overseas who do not want vacancies at their posts. Thus, as we have previously reported, certain high-priority positions may not be filled if Foreign Service officers do not bid on them.

In commenting on a draft of our September 2005 report, State disagreed with our recommendation that it prepare a comprehensive plan to address vulnerabilities in consular staffing. State argued that it already had such a plan. Moreover, State claimed that it appreciates that priority positions must be filled worldwide based on the relative

²¹ State defines hardship posts as those locations where the U.S. government provides differential pay incentives—an additional 5 percent to 25 percent of base salary depending on the severity or difficulty of the conditions—to encourage employees to bid on assignments to these posts and to compensate them for the hardships they encounter. See GAO, *State Department: Staffing Shortfalls and Ineffective Assignment System Compromise Diplomatic Readiness at Hardship Posts*, GAO-02-626 (Washington, D.C.: June 18, 2002).

²² The assignment process begins when Foreign Service employees who are eligible to be transferred from their current assignment each year receive a list of instructions and upcoming vacancies for which they may compete. Staff then must submit a list of those positions for which they want to be considered.

DRAFT

strategic importance of posts and positions. While State argued that every visa consular officer is serving a strategic function, the department identified one post, Embassy Baghdad, as a clear example of a priority post. Further, State acknowledged that it has fewer midlevel consular officers than it needs. We continue to believe it is incumbent on the department to conduct a worldwide analysis to identify high-priority posts and positions, such as supervisory consular positions in posts with high-risk applicant pools or those with high workloads and long wait times for applicant interviews. Although State noted that it anticipated addressing this shortage of midlevel consular officers, it did not indicate when that gap would be filled.

On January 18, 2006, the Secretary of State announced the department's plan to restructure overseas and domestic staffing. This plan aims to shift U.S. diplomatic personnel from European posts and headquarters offices to posts in Africa, South Asia, the Middle East, and elsewhere. While we have not conducted a comprehensive review of this initiative, only midlevel political, economic, and public diplomacy officers, and not consular officers, would comprise the initial realignment of 100 positions, according to State officials.

In February 2006, consular officials told us that, since our report, they concluded a review of consular position grades to ensure that they reflect the work requirements for each consular position. Based on this analysis, consular officials recommended that 47 positions be upgraded—from an entry- to midlevel position, for example—to reconcile the management structures of posts that have undergone rapid growth. However, State's bidding and assignment process does not guarantee that the positions of highest priority will always be filled with qualified officers. Therefore, a further assessment is needed to ensure that State has determined its staffing requirements and placed the right people in the right posts with the necessary skill levels.

DRAFT

Conclusions

The visa process presents a balance between facilitating legitimate travel and identifying those who might harm the United States. State, in coordination with other agencies, has made substantial improvements to the visa process to strengthen it as a national security tool. However, given the large responsibility placed on consular officers, particularly entry-level officers, it is critical to provide consular posts with the resources necessary for them to be effective. Indeed, extensive delays for visa interview appointments point to the need for State to perform a rigorous assessment of staffing requirements to achieve its goal of having the right people with the right skills in the right places.

Mr. Chairman, this concludes my prepared statement. I will be happy to answer any questions you or Members of the Committee may have.

Contact and Staff Acknowledgments

For questions regarding this testimony, please call Jess T. Ford, (202) 512-4128 or fordj@gao.gov. Individuals making key contributions to this statement include John Brummet, Assistant Director, and Kathryn Bernet, Eugene Beye, Joseph Carney, and Jane Kim.

DRAFT

Appendix I: Related GAO Products

Border Security: Strengthened Visa Process Would Benefit From Improvements in Staffing and Information Sharing. GAO-05-859. September 13, 2005.

Border Security: Actions Needed to Strengthen Management of Department of Homeland Security's Visa Security Program. GAO-05-801. July 29, 2005.

Border Security: Streamlined Visas Mantis Program Has Lowered Burden on Foreign Science Students and Scholars, but Further Refinements Needed. GAO-05-198. February 18, 2005.

Border Security: State Department Rollout of Biometric Visas on Schedule, but Guidance Is Lagging. GAO-04-1001. September 9, 2004.

Border Security: Additional Actions Needed to Eliminate Weaknesses in the Visa Revocation Process. GAO-04-795. July 13, 2004.

Visa Operations at U.S. Posts in Canada. GAO-04-708R. May 18, 2004.

Border Security: Improvements Needed to Reduce Time Taken to Adjudicate Visas for Science Students and Scholars. GAO-04-371. February 25, 2004.

State Department: Targets for Hiring, Filling Vacancies Overseas Being Met but Gaps Remain in Hard-to-Learn Languages. GAO-04-139. November 19, 2003.

Border Security: New Policies and Procedures Are Needed to Fill Gaps in the Visa Revocation Process. GAO-03-798. June 18, 2003.

Border Security: Implications of Eliminating the Visa Waiver Program. GAO-03-38. November 22, 2002.

Technology Assessment: Using Biometrics for Border Security. GAO-03-174. November 15, 2002.

Border Security: Visa Process Should Be Strengthened as an Antiterrorism Tool. GAO-03-132NI. October 21, 2002.

State Department: Staffing Shortfalls and Ineffective Assignment System Compromise Diplomatic Readiness at Hardship Posts. GAO-02-626. June 18, 2002.

State Department: Tourist Visa Processing Backlogs Persist and U.S. Consulates. GAO/NSIAD-98-69. March 13, 1998.

State Department: Backlogs of Tourist Visas at U.S. Consulates. GAO/NSIAD-92-185. April 30, 1992.

Chairman TOM DAVIS. Thank you very much.

Mr. Edson, let me start with you. One of the challenges the State Department faces is putting enough consular employees in its interview windows to cope with the sheer volume of applications. I have seen that as we go abroad. GAO has recommended a review of the consular affairs staffing plan, a recommendation which State does not concur with, as I understand it. GAO reports that in April 2005, it found that 26 percent of mid-level positions were vacant or filled by entry-level employees. It also reports that State's current assignment process does not guarantee that positions in hardship posts, many of which have some of the worst processing delays, will be filled because it allows employees to choose from among available job openings.

How do you justify this policy? And how can your staffing plan be adequate when busy consular posts like Seoul, South Korea, experience little or no wait times for visa interviews while other posts, particularly in India, currently experience wait times in excess of 3 months?

Mr. EDSON. Thank you. The——

Chairman TOM DAVIS. And I have a followup.

Mr. EDSON. All at once, too. [Laughter.]

We have worked very closely with GAO over the past several years over a lot of these studies, and I think our differences on the staffing plan are perhaps more semantic than anything else. We have an ongoing process to review staffing at our consular sections overseas. That process resulted in the 515 additional positions we have created in the past 5 years, and plans into the future.

We are particularly concerned that the volumes that we are reaching in the visa world are not something that we can sustain with the traditional staffing model. Hiring entry-level officers into the foreign service and assigning them overseas to do consular work on their first couple of assignments and then moving them up into the organization, that results in a pyramid that is just way too wide at the base given the level of demand now. We are working on a number of alternative staffing models that we hope will give us flexibility to deal with that non-immigrant visa demand into the future.

The specific question about differences in posts and the comparison of, for example, Chennai and Seoul, a number of factors contribute to those kinds of differences in wait times. The physical plant in Seoul, in particular, is much more conducive to a regular flow, a linear flow of applicants through the consular section. The level of fraud in Korea now is much lower than the level of fraud in India.

Chairman TOM DAVIS. You get a lot of repeats in Korea, too?

Mr. EDSON. We get a lot of repeat travelers. Yes, we get a lot of repeat business travel to the United States out of Korea, whereas, in India, an awful lot of the work in Chennai is the H and L temporary worker visas, which are a little more time-consuming to adjudicate, in any event. So there are differences there.

But we know that the wait times in Chennai are unacceptable and are working through a number of ways, including physical plant improvements, process improvements, the President's an-

nouncement of a new consulate in the works for Hyderabad, and staffing, to do what we can to drive down that wait time.

Chairman TOM DAVIS. Do you have enough flexibility in the current law to cope with that? Or do you think you need more flexibility? Or is that outside your charge here today?

Mr. EDSON. In terms of personnel or in general?

Chairman TOM DAVIS. Legal flexibility, just legal flexibility to allow you the personnel flexibility you need to experiment.

Mr. EDSON. That is probably beyond—I could take the question. We could get back to you on that from the personnel side.

Chairman TOM DAVIS. All right. The American Foreign Service Association has recommended that Congress amend the Foreign Service Act of 1980 to lift the dual compensation cap on retired Foreign Service officers to give States more flexibility in using these experienced retirees to fulfill a seasonal or a stop-gap role in processing visas. As you know, this committee has oversight of Federal Civil Service policy, and we have granted this authority to other agencies in the past. In fact, as we see some of the brain drain coming down, we have been a little more permissive on this, I think, than some of our predecessors.

Do you think more flexibility in hiring retirees would aid in reducing backlogs and in providing guidance to junior officers?

Mr. EDSON. Oh, yes. As you may be aware, when we hire retirees—and we do quite a bit to handle staffing gaps and other special project needs—we are faced with two caps. There is a limit on the number of hours they can work per year, and there is a salary cap in addition. Since they are hired as Civil Service employees, they get cost-of-living adjustments every year, and what, in effect, happens is they hit that cap on salary more quickly each year that they work, and thus as they get more experienced, we are able to use them less efficiently.

Chairman TOM DAVIS. OK. Mr. Ford, I want to mention for the record we will be asking GAO to conduct a followup review focusing specifically on wait times in India.

In your prior reports and again in your testimony today, you have recommended a thorough review of consular staffing procedures. What would GAO expect such a review to look like? Could State address staffing shortfalls by hiring additional Foreign Service national employees and start conducting interviews 5 days a week instead of 4 days a week, for example?

Mr. FORD. Yes, you know, we did not prescribe exactly how the State Department should go about such a study, but I think there are certain elements that we would like to see in such a study. I think, first of all, would be the setting of some sort of performance standard for what an expected applicant wait time might be.

We mentioned in our report in the fall of last year that the State Department has an informal standard that anything over 30 days would be considered to be a management issue that they would have to come to grips with. So we think the assessment should establish a standard and that workloads should then be tied to that standard so that you could then judge how many people you would need in any point in time to deal with the demand.

I think that with regard to the issue of operations at each post, based on what we have seen, there seems to be different practices

at different posts. For example, you mentioned whether they interview applicants on a 5-day-a-week basis, how many hours a day they interview applicants. A lot of that is driven, I am sure, by the number of people they have, but I think those are practical, day-to-day suggestions that the Department should be looking at to try to reduce the wait time.

We noticed recently when we were in Italy that the embassy in Rome had a spike-up in demand and that they basically adjusted by increasing the number of days and the number of hours that they were processing applicants. So we know that those kind of actions would be helpful.

I think in the long term, the issue has to be looking at what forecasted demand is likely to be. I think when you think in terms of India and China where we know there is a substantial amount of economic growth, the Department needs to look forward, as they just mention they have done in a study they—we have not seen this study yet, but it is the kind of thing that needs to be done. They need to look forward in terms of what likely demand is out there so that they can adjust their resources accordingly so they don't get in a position like they are now in India where they have an extensive set of wait times.

Chairman TOM DAVIS. OK. Let me ask you, Mr. Edson, in 2004 we legislated what is essentially a universal, mandatory interview requirement for all visa applicants aged 14 to 79. Can you explain the effects of this requirement on State Department resources? And do you think greater flexibility for State in this area would help alleviate these long wait times? For example, would it be possible to exempt frequent low-risk travelers whose biometrics are already on record with repeated interviews?

Mr. EDSON. The requirement to interview all applicants that became law in 2004, we had implemented similar processes by regulation in 2003. It is an incredibly useful border security tool. We find it a very valuable anti-terrorism tool to look the applicant in the eye.

As time goes on, though, and we develop more sophisticated screening and risk management tools, we would appreciate, I think, the flexibility to use that tool, the tool of the in-person interview, a little more flexibly. The personal interview and the biometric collection process both require the physical flow of applicants through our facilities in a way that was not true before we implemented those processes, and I think that is the biggest single impact of post-September 11th changes on consular operations and on these wait times that we are looking at, is the need to deal with physical appearance in so many cases.

Chairman TOM DAVIS. OK. Thank you very much.

Ms. Watson.

Ms. WATSON. I think we have successfully identified the problem, but I have not heard yet what steps are being taken and why it is taking so long.

Now, if GAO is involved, is there money proposed in the 2007 budget that would address increase in consular officers? I did note that 515 additional staff have been employed. However, it seems like the need is even greater than that. The training and the length of time it takes to train has to be taken into consideration.

So can you respond to what you feel will be the cost if we are going to make the consular services more effective, more timely, so that we could get the intellectuals into the country that we need? What would the funding be? What would you propose for the funding? And how can you quicken the pace of developing this area?

Let me ask Mr. Edson and then Mr. Ford.

Mr. EDSON. That is a very important question. The response to the management challenges that we face in each of these posts actually differs, and it makes the question a little difficult to answer because there is a combination of staffing and facilities in particular. We are constrained in India and China by facilities as much as staffing because the windows are all full, so adding more bodies does not help without building out.

Ms. WATSON. Excuse me. Let me interrupt you. I am aware of that, and so maybe you can address—I know they differ. I ran an embassy and I had a consular office and I knew what the backlog was. But how are we addressing that? Each embassy and each consulate is different. How are you addressing that? And what would be the cost of addressing it?

Mr. EDSON. I cannot speak to the cost right now, although we could take that and respond later. How we are addressing it is to look both globally at alternative ways or possibilities for ways to do this work that does not rely on the traditional model of people, you know, adjudicating officers on the spot in physical facilities, and to look at the traditional model, which is what we have to work with in the short and medium term.

Each of our posts has been charged with developing management plans on the ground. In addition, our staff here in the Executive Director's office of the Bureau of Consular Affairs and myself and my team, we are looking at things we can do with alternative staffing models and better technology, different building design, different options that will give us the flexibility to move forward.

Ms. WATSON. Mr. Ford.

Mr. FORD. Yes, with regard to the issue of cost, I cannot answer that question. I have not seen any analysis that has been done by the State Department with regard to what it would take for them to fully staff all of their consular positions, particularly at the levels that they need to staff them at.

They are bringing in a lot of new entry-level employees. They have a gap in the mid-level supervisory positions which I believe will take years for them to train the new people to do the supervisory tasks.

So how much it is going to cost to bring these people in, train them, ensure that they have the adequate language skills to fulfill their responsibilities, we have not seen any numbers from State as to what that amount might be.

Ms. WATSON. Why isn't that a concern right up to the top with the Secretary of State? Immigration in my State is a huge, huge issue, and it is spreading across the country. And the major concern are people coming over the border illegally. And our concern is securing—our country securing our borders. It is a top priority. It is a top priority right here in Congress.

What I am hearing is that it is going to take years and we are looking at, we are assessing. Why is it not a top priority? Why is

it there could not be an assessment of what the need fiscally would be so that you could get that in the budget as we process it at the current time? I would think that with the State Department you would have an assessment at hand, and it is not good enough to talk about years in the future. We have a current problem right now. We have illegals. They are estimating the Spanish illegals are up to 11 million. I am sure there are another million of others. And these are illegals. The people that we are processing to come legally get caught up in this.

And so I do not hear the urgency in what the two of you are saying. Yes, Mr. Edson?

Mr. EDSON. It actually is a top priority of the Department. I did not mean to make it sound as if it is not urgent. It is just that the response is—the problem is a little bit of a moving target, and so the response is piecemeal. Looking at staffing models is one part of that.

In India, for example, a new facility in Bombay that we hope will open by the end of 2008, a new consulate in Hyderabad, which may open in a leased facility in 2008, and then in a purpose-built facility by 2012, a new online appointment system that our embassy just implemented for the whole country earlier this spring—those are all pieces of an approach to meeting that workload in India and making sure that those folks, that contribution to our economy is able to get visas and flow through in a smooth way. But those pieces are separate but related project plans that we keep working on as we move forward.

The economy in India has shifted rather dramatically in the past couple of years. In 2002, we had 32 consular officers there, and they were meeting the demand with almost no wait. Today we have 57 consular officers there, almost doubling the number, and we have these waits. But partly that is a good-news story from the back side, if you will, because the wait is driven by the demand, which is driven by the increased exchange with the United States, particularly in the high-tech industry.

Chairman TOM DAVIS. Thank you very much.

Mr. Porter.

Mr. PORTER. Thank you, Mr. Chairman.

I guess to leave the script for a moment, any suggestions for an out-of-the-box approach? Is there some ideas out there that we have not been talking about that may work? I understand you have your parameters and I know you have things that you are supposed to bring up today, but out of the box, are there some things that you think would help?

Mr. EDSON. We are trying. Secretary Chertoff and Secretary Rice made a commitment in January to a joint vision for working together, largely on the IT side, to make sure that we have transparency with DHS systems and that we use—we take full advantage of that, leverage the power of these biometrics that we are collecting now to somehow facilitate travel.

We have talked a little bit about balancing Secure Borders and Open Doors, but I think if we designed our security measures properly, most of them should facilitate travel in and of themselves. It should not be a balancing act. I think we can have it both ways.

We are committed to experimenting with doing visa interviews by digital video connection. That will be a pilot. We will do it a couple of different ways this year and see what the results are, see if that is a useful model for us. We are committed to moving to an online application, not on a paper paradigm, but an interactive interview style, collection of information from the applicant. That gets us data in advance. We are interested in seeing what we can do to streamline the interview and visa process at the back end, having collected that information so much earlier in the process, instead of right on the day of interview. Things like that we are working on, and working with DHS on.

On the immigration side, we would very much like the distinction between what U.S. CIS, Citizenship and Immigration Services, does and what we do to be invisible to the public. We would like the public service seeker to go through both of our systems transparently, without realizing they are shifting from one agency to the next. And I think that can only help as well.

Mr. PORTER. You mentioned paperless visas. Is that what you are talking about now, a paperless visa with the technology?

Mr. EDSON. At one point—more than that. Those things that I just discussed are things that I think are probably practical, certainly practical, and that we are working hard on. The paperless visa, we were intrigued by some of the models with countries like Australia, perhaps, that for some populations have managed to figure out ways to make the visa process fully electronic where no foil or token is actually issued at the back end.

That is a little more difficult in our operating environment, but we would like to remain open to the possibility of options like that.

Mr. PORTER. You mentioned the different agencies, and I know that the State Department and DHS have shared responsibility. How is it working, that division? Is it problematic? Are there some things that we can do to improve upon that?

Mr. EDSON. In the traditional sort of pre-Homeland Security Act sense, the way that our immigration process is split between INS and the Department of State in the old days, I think that works actually quite well, particularly once we get the data transparency issues resolved. You have a situation where you have some checks and balances. You have a double check in most processes that makes it more secure, I believe. We just have to focus on the customer service to make sure that piece of it has not become less efficient.

Post-Homeland Security Act, it is working pretty well, the new responsibilities that DHS acquired for oversight of visa policy, the visa security units overseas. We are still working together to clarify the parameters of what each of our agencies does so there is not unnecessary overlap. Sometimes the overlap is useful and sometimes it isn't. So we are working together. It is a new agency, and we still have a need to actually provide more guidance to our consular officers in the field about what it is that DHS will do and what way they will do it. But we are working that out as they gain more experience.

Mr. PORTER. Are there some specific things in this marriage that could improve, that would help the visa process?

Mr. EDSON. Not that I can think of offhand. Most of what we are talking about here is non-immigrant visitors to the United States, and DHS does not play a practical role in most of those cases. Petition-based, temporary employment visas to the United States, are all petition-based, and those do go through U.S. CIS before coming to our consular sections abroad. So in that sense, the interview wait time is only a part of the picture. The wait time that an applicant has to get an approved petition through U.S. CIS is also an important piece of the total processing time.

Mr. PORTER. Thank you.

Chairman TOM DAVIS. Thank you.

The gentleman from Maryland?

Mr. VAN HOLLEN. Thank you, Mr. Chairman, and thank you for holding this hearing, and I thank the witnesses. I apologize for being late. We have a hearing next door in the Judiciary Committee going on right now as well.

I just wanted to address a couple issues, if I could. First, the whole question of student visas and higher education. A number of years ago, a lot of us were alarmed to see a dramatic drop-off in the number of foreign students coming to the United States for a variety of reasons. I think they enrich our institutions here in many ways, and they also, I think, are helpful to our economy, those that decide to stay and seek legal status in this country. I think over time evidence has shown they have been a major boom to the economy, especially certain sectors of the economy.

I understand now that has improved somewhat and the numbers are back on the upswing. Can you talk a little bit about the signals you are sending to our embassies overseas to ensure that, consistent with our security needs, they are making people understand that we welcome foreign students in our universities here?

Mr. EDSON. We are in a somewhat unique position now with the Secretary of State's background, and I think I can very honestly say that the importance of international education has never had a higher profile in the Department than it does now.

For several years now, we have stressed to our consular sections abroad the importance of processing student visas in a very timely way so that no student misses the start of school because they could not obtain an appointment to get a non-immigrant visa, student visa.

We have added some instruction on the importance of international education and business to our basic consular training course. Most of our posts have been able to do outreach to the student community. We have done a lot of outreach to the educational community here in the United States and tried to emphasize a model overseas that has our commercial sections, our public affairs people, and our consular sections working with the Fulbright Commission and other organizations to reach out to educators and students abroad.

I think most consular officers now are aware of the high stake we put in international education and the enrichment that it brings to the United States. And we work regularly to correct misconceptions, to make sure that community colleges are treated with the same respect that prestigious 4-year institutions get, likewise English language training, so that the whole spectrum of U.S. edu-

cation benefits from this exchange with the international community.

Mr. VAN HOLLEN. Could you talk a little bit about an incident—I think it was a couple months ago—in southern India—I believe it was out of Chennai, but I am not sure—where a very distinguished Indian scientist applied for a visa to come to the United States to attend a symposium, I believe somewhere down South. He drove many hours to the consulate. He was denied a visa. I do not know what the grounds were. Ultimately, I guess New Delhi got involved. It became an international incident, really, and I think the gentleman in the end sort of said: You know what? You guys just made—this was a humiliating experience, forget it, I don't want to come. And that kind of signal, I got to tell you, sends a chilling message to others around the world.

Could you talk a little bit about the specifics of that case? What were the grounds for the visa denial? I assume that because of the rapid reversal from New Delhi, the original grounds were not—well, why don't you just—if you could tell us what happened there, and what measures have been taken to prevent that kind of incident from occurring again.

Mr. EDSON. I cannot speak to the specifics of that individual case in this forum, but I can talk about the process in Chennai, and it was a fairly standard process that individual case was involved in. So I think it will be responsive to the question.

The need for personal appearance, the need for biometric collection in the interview, that requirement to appear at one of our facilities, particularly in a large country like India, has made the visa process more time-consuming, more resource-intensive for the applicants, as well as for us in the State Department. It is not as convenient today as it was several years ago in many countries.

Some applicants object to the need for an appointment, the need to wait in line when they come for an appointment, and the need for a personal interview. That is part of the picture.

In addition, in that particular case, and in other cases involving scientists in some countries, we do do in a very small percentage of cases some additional interagency screening back here in Washington for scientists involved in particularly sensitive fields. As part of that process, they are asked some additional questions at the time of interview, mostly having to do with their academic studies and publications.

We are fairly strong with our consular officers that they can never arbitrarily put a case into some sort of status that does not exist under the law. So even when we put a case into a pending status, when we tell an applicant that we need something else from them, would they please just fill out this form or send something back to us, we technically are denying them under the law, under a section of the law that just says we need more stuff before we can make a final decision.

Most applicants understand our explanation, and that has not been an issue. But that is true everywhere around the world every day to the tune of thousands of cases, where the applicant has not brought in as much as they needed to complete the visa application. When they do complete the visa application, we are normally

able to process is to completion relatively quickly, within a matter of a couple of days in the case of some Indian scientists.

Mr. VAN HOLLEN. Mr. Chairman, I see that my time is up. If I could just ask, I guess the reluctance to go into the details of this specific case has to do with the confidentiality of the case. Is that—

Mr. EDSON. Exactly. It is just the confidentiality of visa application information under the INA.

Mr. VAN HOLLEN. I would like to followup, though, because I do think we can learn from specific cases, and clearly the embassy in New Delhi reversed the decision very quickly, and it raises the question about, you know, what was the problem to begin with if it could be reversed so quickly just because of the sort of public attention that was given to it.

Anyway, I do not want to take up any more time, but I would like to followup. Thank you.

Chairman TOM DAVIS. Thank you very much.

Mr. Duncan.

Mr. DUNCAN. Thank you very much, Mr. Chairman.

I have the University of Tennessee in my district, and a few months ago, Senator Lamar Alexander, who at one time was president of the university and who was our Secretary of Education, expressed concern that we were making it, he thought, too difficult or too time-consuming for foreign students to get into this country, and in some of my travels to other countries, I have heard some of the U.S. embassy staffs say some of those same things, that they are noticing students from other countries going to Great Britain and other countries where they might have come to the United States.

Now, to be totally accurate and honest, I have not heard that expressed to me by University of Tennessee officials, and there is a large foreign student population there and always has been, or has been for many, many years. Do you think that these visa problems or the increased security are causing foreign students to go to other countries instead of the United States? And do you think it is causing or having an effect on academic institutions and conferences and symposiums? Either one of you, have you heard that expressed?

Mr. EDSON. It has been expressed, and there was a drop in the number of international students coming to the United States a couple of years ago. I did not—and I do not have a good head for figures, so I am not going to make them up. We could certainly respond on the record, if you wanted, with the numbers, but the picture has gotten better in international education. The original downturn appears to have been complex—the causes of that original downturn appear to have been complex. Certainly visas could have been a part of it. I am positive that the perception of the visa process was a part of it. SARS, changes in the educational testing system, the SATs, administration overseas, changes in the market—a number of those things happened.

We have talked to foreign governments about increases in students in their countries, and some of them saw increases that now have leveled off or declined. I think there is no question that we are more—American educational institutions are facing a more

competitive international environment now. More students go to Malaysia, for example, for English education when they might perhaps have gone to the United States before, but it is available cheaply and close at hand. Those sorts of things have changed the dynamic.

Mr. DUNCAN. All right. Let me ask you a couple other things in the brief time that I have. I have a very large population in my district from India, and so I noticed that a couple of these consulates that have these big delays are in India. Now, you said one of the problems was that they have more H1-B visa applications. How much longer does it take to fill out one of those H1-B applications as compared to just an ordinary visa? And those consulates where you say it is a management problem, are they putting out a lot fewer applications per worker or taking—I mean, what is the problem, as best as you can determine?

Mr. EDSON. India poses a unique sort of situation for us because that demand spiked up so quickly. I do not have the number I was going to share with you, but the economy has been growing by about 8 percent per year, and with that, the high-tech sector in particular has had a dramatic increase in the number of applicants to the United States.

Our operations in India are actually among our most efficient in the world. What we have there is a case where demand just outstrips the physical plant more quickly than we could respond to it.

H1-B processing, the temporary workers, is more time-consuming, not because of the forms that are required. They do have to file—the employer files a petition with DHS here in the United States. That takes more time. But the judgments, the questions that our consular officers are having to ask are more complex. They have to go into is the applicant really qualified for the particular high-tech job that they are going to and will they be directly employed in it or benched to be loaned out in a body shop type situation that is beyond what the law specifically envisioned.

Mr. DUNCAN. In regard to the number of high-tech applications from India, we were told by staff that there was a decision recently announced to construct a new consulate in Hyderabad, but that many in the business community, particularly in the high-tech areas, wonder why Bangalore, which is called the Silicon Valley of India, why that was not chosen. Can you explain the rationale as to why Hyderabad was chosen over Bangalore?

Mr. EDSON. Sure. A couple of reasons. Hyderabad is the capital of Andhra Pradesh. It is the sixth largest city in India, a center of the high-tech industry on its own. Microsoft actually has its India headquarters in Hyderabad.

Bangalore is connected to Chennai by a relatively good road. It takes a couple of hours by road. The road connections to Chennai out of Hyderabad are much worse, so it is correspondingly a little more difficult for applicants in that area to get to our visa processing center.

About 35 percent of the workload in Chennai actually comes from the State of Andhra Pradesh and 20 percent from the greater Hyderabad area right there. It seemed like a fit on balance compared to Bangalore.

Mr. DUNCAN. All right. Thank you very much.

Thank you, Mr. Chairman.

Mr. SHAYS [presiding]. I thank the gentleman.

Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Mr. Edson, let me ask you this: You were just talking about India and the unique problems that you have. You have so many people applying, and I think you said the demand is so great, but you do not have the physical facilities. Is that right?

Mr. EDSON. Right.

Mr. CUMMINGS. And personnel?

Mr. EDSON. Correct.

Mr. CUMMINGS. What do we do with regard to redeployment? You know, in most instances, I guess, when you have—and I am not just talking about India, but I am talking about your whole agency, where you see that there is a tremendous demand in one area there, do you have any latitude to redeploy personnel?

Mr. EDSON. Yes. In general, in the consular world, resources have followed the demand, the workload. Back in the 1980's and early 1990's, when countries went into the Visa Waiver Program, for example, after the workload stabilized and we figured out what it really was going to be in that new base, those positions were re-deployed to other consular sections.

One of the things we are seeing right now is, unfortunately, most posts are not going backward in workload. They are just increases given the increasing connections between U.S. companies and U.S. institutions with international companies and institutions.

Mr. CUMMINGS. Do you think that there is a—you know, as I was listening to the testimony, I was just wondering. Do you think that there is any kind of backlash from other countries when they—you know, when it goes the other way? It is one thing for folks to come here. It is another thing for our folks to go other places. Do we see any repercussions, say, when people see that their folks are unable to travel freely, do you see anything or would that even be in your line of sight?

Mr. EDSON. We do look for that. It is certainly within the rights of other nations to impose, you know, restrictions on entry into their countries. Most countries have not retaliated in any way, trying to make an issue out of the appointment wait times, for example. Even the fingerprinting, very few countries initiated fingerprinting just because we did. Some countries have programs now to move to fingerprinting as part of the visa process, and we have given them technical advice on how we implemented such a program. But most countries, I think, have been more concerned with the economic benefits of exchanges of visitors with the United States and have not slowed down visa processing to retaliate for our resource issues.

Mr. CUMMINGS. A little earlier you talked about the staffing problems, and you talked about the physical infrastructure. And I was just wondering: Is there a timeline to submit this information, that is, the need for certain things to the Congress, do you have a timeline for that, you know, so that we can see if we cannot help remedy this problem?

Mr. EDSON. In general terms, it goes into the President's budget; it goes into the regular budget planning cycle. We are trying to

reach out further. The capital planning cycle I believe is 10 years out for facilities, and we are key players in both of those processes in the Department to try to reach out to that.

When demand changes quickly, we have been able in some cases to meet it either with permanent staff—and a lot of that permanent staff post-September 11th was actually obtained out—we were able to obtain it much more quickly than the normal planning cycle would normally have allowed.

Mr. CUMMINGS. How did you do that?

Mr. EDSON. I cannot tell you. I think it was a supplemental request, but I can take the question—I think it was a supplemental.

We have gone—we do use retired—you know, we re-employ annuitants widely. We have used Civil Service employees of the Department on excursion tours overseas. We can do both of those things pretty quickly. We have expanded the use of contract employees for not inherently governmental work in the United States in order to free up USG employees that we could then shift overseas. Those sorts of things we are able to do fairly quickly.

Mr. CUMMINGS. Well, with regard to infrastructure, I guess that is a much more difficult problem.

Mr. EDSON. New plant is a more difficult problem. For example, in India—Calcutta, Chennai, and Delhi—we have added windows, interview windows, to the existing plant. We can do that. We are just, you know, upgrading facilities that we already have. That is something we can do fairly quickly, and we do do fairly quickly, to the extent that—I mean, we can only go from exterior wall to exterior wall, so there is an end to how much additional space we can gain that way. But that we have done.

The other new facilities, it is a longer planning cycle. Beijing, we hope to open a new embassy in 2008, for example, and I think that has been 8 years or so in the making. A new facility in Bombay, 2008, and that has also been several years in the making.

Mr. CUMMINGS. Thank you.

Chairman TOM DAVIS. Thank you.

Mr. Issa.

Mr. ISSA. Thank you, Mr. Chairman, and I will be brief.

Mr. Edson, the practice—I was part of the group that defended keeping Foreign Service officers doing consular work when that was going to be taken away under the reform of Homeland Security. But I continue to have sort of the nagging problem that it is the starting position. You put your absolute freshmen, the day off the boat, into that position, and often it is not the shining part of a State Department person's career to oversee that.

Do you have any reforms that you think would help the process of both reliability and speed when it comes to meeting those requirements of evaluating visas?

Mr. EDSON. Thank you. Thank you for that.

Mr. ISSA. Thank you for saying “thank you.”

Mr. EDSON. We think that the model has worked for us. The real challenge is the volume, the total number of people we need at the entry level now. But most consular officers—most Foreign Service officers doing a consular tour abroad are supervised by experienced managers with the recognition of the mid-level gap that we have now that Jess mentioned earlier. These are dedicated professional

employees who, whether they joined the Foreign Service in order to do this or not, do it well and do it seriously. They are mostly very efficient at the work, concerned about national security as well as travel; if anything, more concerned about national security.

Again, our quandary is dealing with the need for enough resources to do the work effectively into the future with the sort of demand we are projecting several years out. And so we are looking at alternative staffing models that will give us the skills and the capability of the professional Foreign Service Corps, but with more flexibility to address the volume.

Mr. ISSA. To followup a little bit along the same line, you know, we are debating, as we speak practically, significant changes in immigration policy, immigration enforcement, but it has long been a policy of the State Department to deal with countries which have a high no-return rate differently than those who have a lower no-return rate, which tends to be purely along—almost purely along economic grounds.

At a time when we have 11 to 20 million illegals in this country, 40 percent overstays, essentially no ability to reasonably control who is here to the tune of 12 or more million people, is it really a prudent policy to discriminate based on the no-return rate, when, in fact, you know, we have such a loose policy in general? In other words, is there a reason to continue trying to run the pumps on the Titanic if—or let me rephrase that, to patch one hole on the Titanic, when, in fact, the pumps have shut off and you have 11 million-plus illegals in this country?

Mr. EDSON. When you talk about a policy of discrimination based on a no-return rate, are you referring to adjudication?

Mr. ISSA. Your consulars actually have a different standard for accepting applications wanting to come to the United States. I have worked in the Middle East a lot from my work on International Relations, and you have countries that are rich countries, and they basically get a rubber stamp on their visas. They do get quick approvals, where if you are from a country with a high no-return rate and you are going to a wedding of your brother or sister, the chances are you are going to be told no.

Mr. EDSON. I understand what you are getting at. We do not discriminate—we do not have different policies in different countries. In applying the Immigration and Nationality Act, looking at tourists and temporary visitors in particular, looking at whether they have a residence abroad they intend to return to, that is an easier decision to make if the applicants in general have well-paying jobs and established family and property abroad than it is in countries where that is not the case. And that may be why it appears that it shakes out along economic lines because it will. I mean, the rates of fraud, for example, tend to be higher in some of the developing economies and the rates of non-return in those economies where there are fewer opportunities for applicants at home.

Mr. ISSA. Certainly. Mr. Ford, are there studies that you could provide this committee about the tens or hundreds of billions of dollars in lost economic activity as a result of delay in bringing people to this country to meet economic needs, particularly when it comes to business deals, specific contracts that went to other countries because, to be honest, we could not provide visas for people

to come here to negotiate those and the like. And when I travel abroad I hear it constantly. What I want to know is can you quantify it.

Mr. FORD. I can tell you we have not quantified it. I have seen some studies done by the American Chamber of Commerce and some other business groups that have raised the issues that you have raised, but we in GAO have not looked at that issue, and I am not sure it can be quantified. I think that there is lots of anecdotal information that we have heard, I guess similar to yourself, but I am not aware of any actual scientific studies that have been done on this issue.

Mr. ISSA. Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you very much. I think that will conclude this panel. I want to thank both of you for taking the time to be here, and the committee will now move to our next panel. Thank you.

Chairman TOM DAVIS. We have a very distinguished second panel as we move everyone up here. We have Ms. Sandra Gibson, who is the president and the CEO of the Association of Performing Arts Presenters. We have Mr. Yo-Yo Ma, the artistic director of the Silk Road Project, Inc., who has taken time out from his tour. He is performing at the Kennedy Center tonight. We have Mr. Dennis J. Slater, who is the president of the Association of Equipment Manufacturers. We have Mr. Kevin Schofield, the general manager of strategy and communications for Microsoft Research. And we have Ms. Elizabeth Dickson, who is the advisor in immigration services, Ingersoll-Rand Co., and the U.S. Chamber of Commerce.

Let me thank all of you for taking the time to be here today.

If you could all stand up and just—we always swear everybody in before you testify.

[Witnesses sworn.]

Chairman TOM DAVIS. Mr. Ma, we will start with you. Let me just give you a personal thanks from me and the committee for taking time out. I know you have to leave at noon. You have to get back and prepare for this evening. But thank you very much for being here. I want to thank all the panelists for being here today. It is a very important issue for this country economically and has a lot of geopolitical ramifications, too, in terms of how we deal with this.

Please go ahead.

Thank you very much, Mr. Ma.

STATEMENTS OF YO-YO MA, ARTISTIC DIRECTOR, THE SILK ROAD PROJECT, INC.; SANDRA L. GIBSON, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ASSOCIATION OF PERFORMING ARTS PRESENTERS; DENNIS J. SLATER, PRESIDENT, ASSOCIATION OF EQUIPMENT MANUFACTURERS; KEVIN SCHOFIELD, GENERAL MANAGER, STRATEGY AND COMMUNICATIONS, MICROSOFT RESEARCH; AND ELIZABETH C. DICKSON, ADVISOR, IMMIGRATION SERVICES, INGERSOLL-RAND CO., AND CHAIR, U.S. CHAMBER OF COMMERCE IMMIGRATION SUBCOMMITTEE

STATEMENT OF YO-YO MA

Mr. MA. Mr. Chairman, members of the committee, I'm grateful for the opportunity to speak with you today.

I'm 50 years old and I've been playing the cello for 46 years and I'm still trying to get it right. Of the last 30 years of being a professional musician, I've spent the equivalent of 20 on the road. Music and travel are constants for me. In my mind, they stem from the same fundamental human sources: an eagerness to explore new territory and a passion for learning. They also both require guides and Ambassadors, if you will, to reveal the beauty and meaning of a place or a piece of music.

But while travel and performance are similar, music has one crucial advantage. It is eminently accessible. You don't need a passport or a plane to visit someplace new. Music provides a shortcut, allowing you to be transported thousands of miles away and back during the 2-hour span of a concert.

It is this quality of music that is so powerful, and it is the ability to bring this music and these guides, these Ambassadors, whether musicians, dancers, or artists, to audiences here in the United States that I hope we will always support and encourage as a country. And it is on behalf of these cultural guides that I'm here today to urge you to simplify the visa process.

My personal experience with the visa process stems from my work with the Silk Road Project, an organization I founded in 1998 to bring musicians from all over the Silk Road region together both to perform contemporary and traditional works as well as to inspire new compositions.

I'm proud to say that the organization has been successful. We've performed on four continents in venues ranging from the Hollywood Bowl to the Washington Mall in cities across the Middle East and Central Asia.

In the ensemble we now have 50 musicians from 15 countries. However, the barriers to bringing these musicians, these cultural guides to the United States have become extraordinarily high. We at the Silk Road Project, along with other organizations, like the World Music Institute and the many important organizations that Sandra Gibson will be mentioning, have found it increasingly difficult to facilitate this cultural exchange because of high financial costs, uncertain timelines, and countless logistical hurdles.

Two Iranian musicians, Siamak Aghaei and Siamak Jahangiri, with whom we have been playing since 2000, who have visited the United States almost 10 times, must wait months before getting their visas. With no embassy in Iran, they must fly to Dubai in

order to sit for an in-person interview and then fly back a second time to get the visas. This past year, it required a third visit to Dubai, as the printer for the visas was out of order and it was unknown when it would be repaired. All told, for these two musicians to participate in their ninth United States tour with the Silk Road Project, the process cost \$5,000 and lasted 3 months.

Sometimes the process never gets under way. Both Zola, one of the great exponents of the long-song tradition in Mongolia, and Wu Tong, the great virtuosic Chinese Sheng player and singer, often cannot even get through the gates to U.S. embassy. Despite having completed all the paperwork, they are frequently shut out because of language barriers or cultural differences.

With fewer of these barriers, our culture has the potential to offer so much. Truly American artists, like Duke Ellington and George Gershwin, sprang from the intersection of international musical styles. In fact, it is worth noting that both Ellington and Gershwin's teachers were students of the great Czech composer Antonin Dvorak, whose time in the United States is a concrete example of cultural exchange. Our cultural strength has always derived from our diversity of understanding and experience.

The benefits to a simpler visa process extend beyond the cultural progress and revitalization we can expect in the future. There's a real desire, even a need, for this cultural richness and diversity today. American audiences are thirsty for new cultural experiences and are eager to understand the inside of these foreign places.

At first, we at the Silk Road Project were nervous about the audience's reaction. We feared we would find people uninterested, indifferent, or even hostile to foreign-sounding music. I vividly remember going on stage in Dallas with the Silk Road Ensemble on October 11, 2001, wondering whether an audience would want to hear a program focusing on the music of Iran, a country so closely associated by many at the time with the attacks 1 month prior.

Quite the contrary. Audience reaction has been overwhelmingly supportive. In Dallas, the audience leapt to its feet, spurred on not only by the music, but also by the signal the music sent, the overwhelming power of culture to connect individuals and to create trust.

I'm proud to say that all of the American performances by the Silk Road Ensemble have been sold out, whether in large cities like New York, Washington, DC, and Los Angeles, or in smaller cities, like Sarasota, FL, Flint, MI, or Columbus, GA. Rather than rejecting unfamiliar musical instruments and sounds, people have demanded and embraced them.

Perhaps this is a reflection of our global era in which no one grows up listening to just one kind of music. Perhaps it is also a reflection of the growing cultural awareness and curiosity of the American audience.

While very few Americans have the opportunity to travel to rural India and even fewer to rural Kyrgyzstan, the arts allow everyone to catch a glimpse into these other worlds through their music, their dance, and their art. Encouraging artists and institutions to foster these artistic exchanges—bringing foreign musicians to this country and sending our performers to visit them—is crucial. But

the high financial cost and the lengthy timeline make these programs difficult to execute and to maintain.

Trust is fundamentally at the center of this discussion. Do we trust people to come into this country to do good, or not? In any musical ensemble, you have to trust your fellow musician in order to succeed in creating something beautiful on stage. The musicians in the Silk Road Ensemble have earned the trust of each other and of audiences around the world. I sincerely hope that they and the many other musicians from foreign countries will be able to earn your trust so they can continue to be Ambassadors from their cultures and countries and so they can carry our message of trust and open exchange back to theirs as well.

Thank you.

[The prepared statement of Mr. Ma follows:]

**Written Statement of
Yo-Yo Ma
Silk Road Project**

**Government Reform Committee
United States House of Representatives**

**Concerns with Nonimmigrant Visa Processing and the Chilling Impact on Global
Cultural Exchange**

April 4, 2006

Mr. Chairman, members of the Committee, thank you for the opportunity to testify before you today. I'm 50 years old. I've played the cello for 46 years. Of the last 30 years of being a professional musician, I've spent the equivalent of 20 on the road. Music and travel are constants for me. In my mind, they stem from the same fundamentally human sources: an eagerness to explore new territory and a passion for learning. They also both require guides, to reveal the beauty and meaning of a place or piece of music.

But while travel and performance are similar, music has one crucial advantage: it is eminently accessible. You don't need a passport or a plane to visit some place new. Music provides a shortcut, allowing you to be transported thousands of miles away and back during the two hour span of a concert.

It is this quality of music that is so powerful. And it is the ability to bring this music and these guides, whether musicians, dancers, or artists, to audiences here in the U.S. that I hope we will always support and encourage as a country. And it is on behalf of these cultural guides that I am here today to urge you to simplify the visa process.

* * *

My personal experience with the visa process stems from my work with the Silk Road Project, an organization I founded in 1998 to bring musicians from all over the Silk Road region together, both to perform contemporary and traditional works and to inspire new compositions.

I am proud to say that the organization has been successful: we've performed on four continents in venues ranging from the Hollywood Bowl to the Washington Mall and in cities across the Middle East and Central Asia.

In the ensemble, we now have over fifty musicians from fifteen countries.

* * *

However, the barriers to bringing these musicians, these cultural guides, to the U.S. have become extraordinarily high. We at the Silk Road Project, along with other organizations like the World Music Institute, have found it increasingly difficult to facilitate this cultural exchange, because of high financial costs, uncertain timelines, and countless logistical hurdles.

Two Iranian musicians, Siamak Aghaei and Siamak Jahangiri, with whom we have been playing since 2000 and who have visited the U.S. almost ten times must wait months before getting their visas. With no embassy in Iran, they must fly to Dubai in order to sit for an in-person interview and then fly back a second time to get the visas. This past year, they required a third visit to Dubai, as the printer for the visas was out of order and it was unknown when it would be repaired. All told, for these two musicians to participate in their ninth U.S. tour with the Silk Road Project, the process cost \$5,000 and lasted three months.

Sometimes, the process never gets underway. Both Zola, one of the prodigies of the long-song tradition in Mongolia, and Wu Tong, the virtuosic Chinese Sheng player and singer, often cannot even get through the gates to the U.S. embassy. Despite having completed all the paperwork, they are frequently shut out because of language barriers or cultural differences.

With fewer of these barriers, our culture has the potential to offer so much. Truly American artists, like Duke Ellington and George Gershwin, sprang from the intersection of international musical styles. In fact, it is worth noting, that both Duke Ellington and George Gershwin's teachers were students of the great Czech composer, Antonin Dvorak, whose time in the United States is a concrete example of cultural exchange. Our cultural strength has always derived from our diversity of understanding and experience.

* * *

The benefits to a simpler visa process extend beyond the cultural progress and revitalization we can expect in the future. There is a real desire, even a need, for this cultural richness and diversity today. American audiences are thirsty for new cultural experiences and are eager to understand the inside of these foreign places.

At first, we at the Silk Road Project were nervous about the audience's reaction. We feared we would find people uninterested, indifferent or even hostile to the foreign sounding music. I vividly remember going on stage in Dallas with the Silk Road Ensemble on October 11, 2001, wondering whether an audience would want to hear a program focusing on the music of Iran, a country so closely associated by many at the time with the attacks one month prior.

Quite to the contrary, audience reaction has been overwhelmingly supportive. In Dallas, audiences leapt to their feet, spurred on not only by the music, but also by the signal the music sent – the overwhelming power of culture to connect individuals and create trust.

I am proud to say that all American performances by the Silk Road Project have been sold out, whether in large cities like New York, Washington D.C. and L.A., or in smaller ones, like Sarasota, Florida, Flint, Michigan, or Columbus, Georgia. Rather than rejecting unfamiliar musical instruments and sounds, people have demanded and embraced them.

Perhaps this is a reflection of our global era in which no one grows up listening to just one kind of music. Perhaps it is also a reflection of the growing cultural awareness and curiosity of the American audience.

* * *

While very few Americans have the opportunity to travel to rural India, and even fewer to rural Kyrgyzstan, the arts allow everyone to catch a glimpse into these other worlds through their music, their dance, and their art. Encouraging artists and institutions to foster these artistic exchanges—bringing foreign musicians to this country and sending our performers to visit them—is crucial. But the high financial cost and the lengthy timeline make these programs difficult to execute and to maintain.

Trust is fundamentally at the center of this discussion. Do we trust people to come into this country to do good or not? In any musical ensemble, you have to trust your fellow musician in order to succeed in creating something beautiful on stage. The musicians in the Silk Road Ensemble have earned the trust of each other and of audiences around the world. I sincerely hope that they and the many other musicians from foreign countries will be able to earn your trust so that they can continue to be ambassadors from their cultures and countries, and so that they can carry our message of trust and open exchange back to theirs as well.

Chairman TOM DAVIS. Thank you very much.
Ms. Gibson.

STATEMENT OF SANDRA GIBSON

Ms. GIBSON. Thank you, Chairman Davis, distinguished members of the committee, for having me testify today on this important issue. I'm pleased to be joined here by Yo-Yo Ma.

I want to focus my presentation—you've got the full testimony—on the negative impact of visa processing delays on the performing arts field and industry in the United States. I have some examples of the problems we continue to experience. We'll talk about the importance of cultural exchange and offer a handful of recommendations to improve the overall processing system.

What we're talking about is sustaining a vibrant global marketplace for a large core of what are small or mid-size arts businesses, nonprofit and for-profit. It's the intersection of culture and commerce and the critical need for access and exchange.

Arts Presenters is the national service organization for the performing arts presenting and touring field, which has over 7,000 organizations in the United States with a collective annual earned and contributed income of \$8.5 billion. The presenting field reaches over 300 million people, audience-goers, every year. We're honored to be a representative of a larger performing arts community and coalition. I'm joined in the gallery by many of my colleagues from the American Arts Alliance and the Performing Arts Visa Taskforce, both of which have been working on these issues for 5 years, since before September 11th.

And the organizations can relate to other business interests here today. We are an industry powered by small businesses. Almost two-thirds of the organizations in our association have budgets less than \$500,000 and are active globally.

Next slide. Arts Presenters' vision statement best captures—next slide, please—why improving the process is so critical to our industry.

Next slide. All people should experience the transformative power of live performance. Art and ideas should circulate vigorously and freely. Artists should play a leading role in civic affairs and global dialog. People of all cultures must interact and affirm themselves through the arts and through culture.

Next slide. In 2002, nearly 75 percent of our industry was presenting foreign artists in the United States. By 2005, that number had dropped to 60 percent. These statistics signal an ongoing problem with the process and a chilling effect on our performing arts industry.

As you know artists from the U.S. travel abroad, share our artistic and cultural heritage, exchange ideas, expressions, and experience other cultures in their cultural context. In turn, artists from abroad come to the United States to share their experiences, their traditions, and heritage. These are the artists who are the leading thinkers, change agents in their societies and exactly the individuals, the creative connectors we want to visit our country, perform on our stages, teach our young people, experiencing America and taking back those experiences to their homeland.

The reciprocal exchanges of artists creates a core of cultural Ambassadors in the United States, so fundamental to our diplomatic mission. Secretary of State Rice has committed to increasing exchanges of this kind with the rest of the world as key to what she is calling transformational diplomacy platforms. Under Secretary of State Karen Hughes has voiced that these types of exchanges are considered the single most successful public diplomacy in the past 50 years.

So the industry plays a vital role in global exchange and therefore in our foreign affairs, public diplomacy, mission and goals. It's time we establish a visa process that strikes the balance between secure borders and a United States that fosters exchange and supports cultural commerce.

The presenting and touring performing arts industry is time-specific. These activities revolve around a practice where you secure performances 6 months to 3 years in advance, particularly if you're talking about artists from abroad. Once a performance is engaged or booked, advance marketing, promotions, ticket sales are initiated, significant costs are incurred and fronted. Organizations, many small businesses, are making the economic investment, taking the risk for the enjoyment and experience of our citizens.

The vagaries of the visa process regularly put the performances in our industry in jeopardy, facing unpredictable economic losses from delays and, in the worst cases, complete cancellation of performances and tours.

We have three principal concerns with the visa process: State Department and consulate delays. Last week, the media reported that the Halle Orchestra from Manchester, England, canceled its two-concert American tour, including playing Lincoln Center in New York, due in large part to U.S. State Department visa policy. Each member of the 100-person orchestra and staff was asked to travel to the U.S. embassy in London for his or her interviews at an additional expense of nearly \$80,000 and 2 days of extra delay, and their time.

For USCIS, we've experienced significant delays for non-immigrant O and P visas. I have examples of those, but I won't cite them.

And finally, oversight by DHS and the process. There's a lack of oversight and coordination of the process by Department of Homeland Security. CIS is not functioning well. Processing center policies and procedures are not uniformly executed. And we've heard even that processing applications is not happening electronically. DHS must exercise leadership in overseeing a more complicated, changing processing system. There's a need for inter-agency coordination and management as well as consistent communication of changes.

Now, we've met with all three agencies and officials over the past 5 years, with varying success, and certainly found the Department of State the most receptive to our needs. As an example, last year Deputy Assistant Secretary of State for Visa Services, Janice Jacobs, sent much-needed interview guidance memos to all posts around the world. We understand that Deputy Assistant Secretary for Consular Affairs, Tony Edson, is considering reissuing these memos shortly, and this needs to happen.

Next slide. Our recommendation.

For State Department, encourage a frequent traveler status for nonimmigrant visas in the artist O and P visa category. We ask for adherence to and a practice of the policy of flexibility regarding location of consular interviews.

With USCIS: Treat any arts-related O and P visa petition that fails to be adjudicated within the legal 30 days as a premium processing case, free of the additional premium fee. This would return our processing times back to a more manageable 45 days maximum timeframe.

And for DHS: Just manage the entire system. Make assessments along the way and better improve the system along the way. Exercise more leadership over the process.

Additionally, we request that you and your colleagues on the committee designate more funds to these agencies to specifically improve visa processing, interviewing, and the approval system, as well as to assure more leadership over the process.

Next slide. As a field, we don't come to the table just asking for reform and relief without doing something ourselves. We've invested significant time and dollars to do our part by training and informing our entire industry, keeping them apprised of changes, increasing their capacity to complete the visa petition process to bring artists to the United States. The Web site artistsfromabroad.org was inaugurated 3 years ago with the American Symphony Orchestra League and provides the practices, comprehensive processes, the step-by-step way to get successfully through the visa system. We conduct seminars and surveys regularly to assess issues and concerns.

So our industry and the wider business community have complied with the important administrative and security changes. We've paid the additional costs associated with obtaining a visa, with the ongoing promise of change from each of these agencies.

As we approach the 5th anniversary of September 11th, we have to see more movement on changes requested and overall improvement. The system is not working for us at this time, and it really is a time when we should be ramping up cultural exchange and commerce. So we welcome the committee's involvement in making these changes happen.

And final slide. You can find out more at our Web site.

I'm happy to answer committee questions and provide more examples of the specific problems and issues I've cited.

Thank you very much.

[The prepared statement of Ms. Gibson follows:]

Written Committee Testimony

Written Statement of

**Sandra L. Gibson
President and CEO
Association of Performing Arts Presenters**

**Government Reform Committee
United States House of Representatives**

**Concerns with Nonimmigrant Visa Processing and the Chilling Impact on
Global Cultural Exchange**

April 4, 2006

INTRODUCTION

Mr. Chairman, members of the Committee, thank you for the opportunity to testify before you today. I want to commend you, Mr. Chairman, for holding this hearing and placing a spotlight on nonimmigrant visa processing concerns, how the current visa system is preventing our U.S. businesses from being able to compete globally and how it negatively impacts our performing arts industry.

Mr. Chairman, the subject of today's hearing is very important. Cultural exchange is important and our nation can and must continue to improve the visa process to allow our businesses to thrive and prosper. My presentation will focus on the negative impact of visa processing delays on the performing arts. This is about sustaining a vibrant global marketplace for a large core of small and midsize arts businesses – nonprofit and for-profit organizations, artists – in our sector; this is about the intersection of culture and commerce and the critical need for access and exchange. I will provide some examples of the problems the industry is experiencing, discuss the importance of cultural exchange, and offer a handful of recommendations that we feel strongly will improve the process.

Background

Arts Presenters is the national service and advocacy organization for the presenting and touring field. We represent more than 7,000 presenting organizations across the country with a collective earned and contributed income of over \$8.5 billion. This field reaches more than 300 million audience-goers each year. Performing arts organizations care deeply about the improvement of the visa process. I am joined in the gallery by colleagues from our advocacy coalition, our partners in the American Arts Alliance and the Performing Arts Visa Task Force. We have been collectively working on this issue for more than five years. Visa delays are making it

increasingly difficult for international artists to appear in the United States. Nonprofit arts organizations and artists confront very long waits and experience great uncertainty in gaining approval for visa petitions for foreign guest artists.

Our association members range from performing arts centers in major urban cities to rural reaches of the country, include festivals and community-focused organizations, the artists, the academic institutions and their collaborators --all of whom offer audiences the breadth of creative expression, representing disciplines ranging in all forms of dance, music and theater. We are an industry powered by small businesses. Almost two-thirds of the organizations I have described have budgets of less than \$500K.

Why Cultural Exchange Matters

Many U.S. artists tour abroad to share our artistic and cultural heritage, exchange ideas and expressions, and experience other cultures and traditions in their context. Artists from abroad tour the U.S. to share their experiences, cultures and traditions. This reciprocal exchange creates a corps of ambassadors, fundamental to our diplomatic mission. Foreign artists who perform in the United States become ambassadors when they return to their country. Foreign artists who perform in the U.S. experience American culture, perform in many of our communities and in many cases have an opportunity to work with our children in schools. These are artists who are the leading thinkers, change agents and focal points in their society. These are exactly the individuals we want to visit our country, perform on our stages, in our schools and experiencing America.

There is a continuing risk that foreign guest artists will be unable to enter the United States in time for their engagements, which are time specific. This causes financial burdens for nonprofit arts organizations, the international artists, and the local artists who may be scheduled to perform alongside the international guests. We are seeing alarming trends; these performing arts businesses are bringing fewer artists into the U.S. In 2002, we conducted a field wide survey in the U.S. that showed nearly 75% of organizations in our industry were presenting foreign artists. By 2005, that number dropped to almost 60%, largely because of the onerous visa process and risk that these performances would have to be cancelled. When performances and tours are cancelled our industry loses money and public trust.

In September 2005, a Congressional Research Service review of 29 studies on public diplomacy demonstrated that a majority of the studies recommended an increase in U.S. cultural exchange programs. The Administration's leadership agrees. Homeland Security Secretary Michael Chertoff has stated that our heritage and our national character inspire us to create a more welcoming society. Recently Secretary of State Rice has committed to increasing exchanges with the rest of the world, and Undersecretary of State Karen Hughes has characterized exchanges as the single most successful public diplomacy initiative in the past 50 years. However, the current ineffectiveness and inefficiencies of the visa process cannot support this desired mission.

As an organization with a growing international membership, I regularly travel abroad to performing arts conferences and arts markets to represent our organization and the U.S. industry. Despite representing the largest marketplace in the world for artists to perform, I am

disappointed to report that a growing number of international artists are not looking to tour the U.S. and not looking to us as the same open cultural marketplace. Our visas policies send the message that we are not open and interested in experiencing diverse cultures, ideas, not open for exchange.

Additionally, we know some countries are discussing the development of reciprocal policies to restrict U.S. artist performances abroad in their countries with more complicated, costly visa processes.

How the Visa Process affects the Performing Arts

- Touring and presenting is a time specific industry. Current industry practice is to secure performances 1-3 years in advance. Once a performance is booked, advance marketing and ticket sales are initiated, significant costs are incurred upfront – our organizations - many small businesses - are making an economic investment to take these risks for the enjoyment and experience of our citizens.
- The vagaries of the visa process regularly place our industry in jeopardy - facing unpredictable economic losses associated with delays and in worst-case scenarios complete cancellations of performances and tours. Our industry loses money and the American public loses out on these rich cultural experiences.

State Department Delays Can be Costly

- *The Halle Orchestra from Manchester, England cancelled its American tour due in large part to U.S. State Department visa policies. Each member of the 100-person orchestra and staff was required to travel to the U.S. embassy in London for his or her interviews at an additional total expense of nearly \$80,000 and two days of their time.*
- *Dino Saluzzi, a Brazilian Bandoneon player and scheduled to make a rare U.S. tour, was told by the consulate office that he needed to travel to Buenos Aires to be interviewed. This was cost prohibitive and the tour cancelled.*
- *Folk Arts Rajasthan was left in limbo when the group did not hear from the consulate in Delhi, India and did not receive a notification of the interview even after they had received their approval notice 2 months prior to their scheduled tour. The artists went to the Embassy the day of their flight in the hope of getting their interviews and were finally approved just hours before their flight was scheduled to depart. The additional visa expense to expedite this tour was 15% of the total gross revenue earned.*

One helpful solution for our industry would be for the State Department to grant multiple consular notifications and to insure that petitioners have the ability to interview at the closest embassy of the petitioner's choice. This would avoid the additional travel, costs or the need for an entire artistic group to interview at the same consulate. Additionally, the requirement for an artist to travel to their country of birth for an interview is extremely costly, time-consuming and illogical, if the individual no longer resides in that country.

USCIS Delays Can be Costly – again can we add dollars lost, timeframe and # of weeks/dates cancelled?

- *John Williams is a highly regarded guitarist. He received the I-797 but CIS listed the country of birth incorrectly. CIS refused to correct the problem in a timely fashion and insisted that he reapply for the visa. The tour was almost cancelled.*
- *Young Concert Artists, based in New York City applied for a P-3 visa they could not afford to go PPS. Finally received the I-797 after 5 months but had to cancel the performance because of the delay.*
- *Shauna Rolston the world-renowned Canadian cellist applied for a visa through CIS and was scheduled to tour Shreveport, LA in March 2006, Harvard Musical Association in April 2006 and Augustana Arts in May 2006. That same month CIS notified her that additional information was required for the tour. The artist's agent's were working frantically to get the information in and hired additional lawyers at great cost.*

Delays and problems caused by U.S. Citizenship and Immigration Services (USCIS) continue to make it increasingly difficult for international artists to appear in the United States. Nonprofit arts organizations confront long waits and uncertainty in gaining approval for visa petitions for foreign guest artists. These delays began in June of 2001 (prior to September 11), when USCIS adopted the Premium Processing Service, guaranteeing processing within 15 calendar days for a fee of \$1,000 per petition – an unaffordable option for most nonprofit arts organizations and artists.

One helpful solution for our industry would be for USCIS to create a policy change that would bring processing times for O and P arts-related visa petitions back to the pre June 2001 wait time of 45 days. We are recommending that USCIS treat any arts-related O and P visa petition that it fails to adjudicate within 30 days as a Premium Processing case (15-day turn-around), free of additional charge.

More Oversight of the Process is Needed

The examples we provide in this testimony shed light on the significant economic impact and hardship that largely bureaucratic delays have caused for the performing arts industry. These are symptoms of a larger problem – leadership and responsive action and coordination for the entire processing system.

We agree with the September 2005 Government Accountability Office report “Border Security, Strengthened Visa Process Would Benefit from Improvements in Staffing and Information Sharing” and also believe that DHS must exercise more leadership and responsibility in overseeing the entire nonimmigrant visa process. The GAO report chronicles the need for State and the FBI to communicate more and for State to have access to key information. We would support these recommendations with the hope that they would eventually lead to frequent traveler status for artists who make return visits to the U.S. to perform.

Our Work with the Agencies and the Industry

We have met with officials at all three agencies over the past five years with varying success. We have found the State Department the most receptive to our needs in recent years. But progress has been very slow.

We have done our part to educate our industry and we do not come to the table just asking for reform and relief with visa processing. As an industry we invested significant time and dollars to train and inform all of our constituents, keeping them apprised of changes and increasing their capacity to try and complete the petition process. Together with the American Symphony Orchestra League and with funding from the National Endowment for the Arts, Arts Presenters created the website www.artistsfromabroad.org, to provide best practices and comprehensive resources, the latest memos, procedural legislative changes and a step-by-step guide to the process. We conduct seminars at our annual conferences with representatives from the three government agencies involved in visa processing and also survey our members to assess their issues and concerns.

Recommendations

In addition to encouraging a frequent traveler status for non-immigrant visas and asking for flexibility regarding location of consular interviews. We also request that you and your colleagues designate more funds to these agencies to specifically improve the visa processing, interviewing and approval system as well as to assure more leadership over the process.

Conclusion

In conclusion, Mr. Chairman, the performing arts industry plays a vital role in our nation's public diplomacy mission and goals and it is time we establish a visa process that truly strikes at the balance between secure borders and sending a message that the United States is open for cultural exchange and supports cultural commerce.

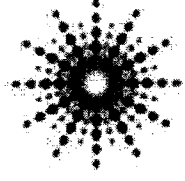
Arts Presenters' vision statement best captures why the visa issue is so critical to our community and to our nation:

We envision a world where

- all people can experience the transformative power of live performance;
- art and ideas circulate vigorously and freely;
- artists play a leading role in civic affairs and global dialogue;
- people of all cultures interact and affirm themselves through the arts; and ,
- public and private sectors alike support the performing arts as a priority.

Thank you.

Association of Performing Arts Presenters
1112 16th Street NW, Suite 400
Washington, DC 20036
Phone (202) 833-2787
Fax (202) 833-1543



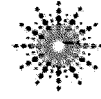
Association of Performing Arts Presenters

71

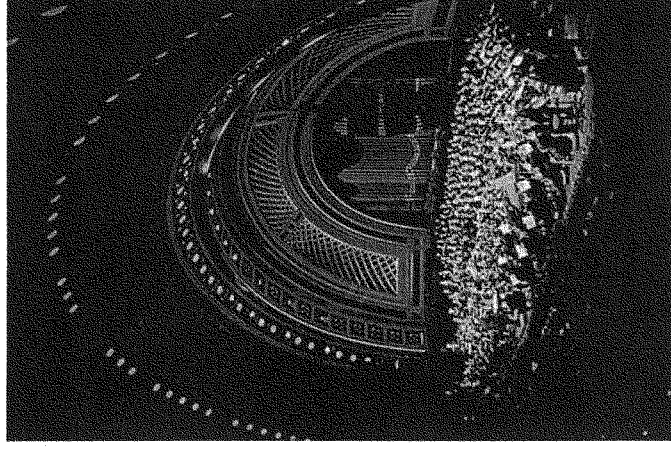
Visa Delays & Effects on the Performing Arts

Sandra Gibson
President & CEO, Arts Presenters

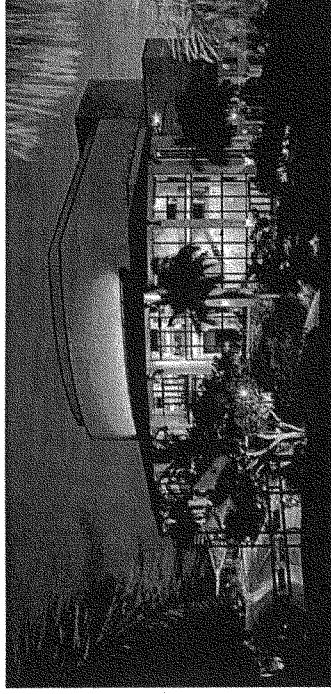
- 7,000+ Presenting Organizations in the U.S. and thousands more worldwide
- \$8.5B in Contributed and Earned Revenue
- 300+ Million Audience-goers
- Dance, Music, Theater and live Attractions



Association of Performing Arts Presenters



University Musical Society, MI



Broward Center for the Performing Arts, Florida

73

We envision a world where all people can
experience the transformative power of live
performance.



Association of Performing Arts Presenters



Shanghai Dance Company, China

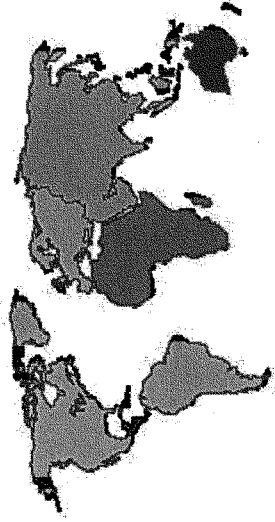
74

2002 Survey: 75% Presenting Foreign Artists

2005 Survey: 60% Presenting Foreign Artists

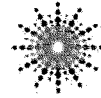


Association of Performing Arts Presenters

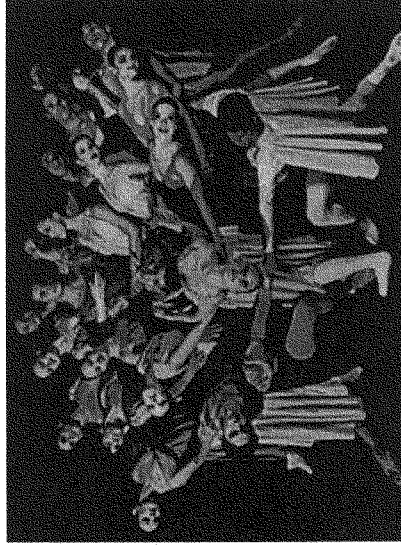


➤ Cultural Exchange
is a vital part of
foreign policy.

➤ Visa process needs
reform to encourage
cultural commerce.



Association of Performing Arts Presenters



Viva Nabrada, Brazil

3 Principal Concerns:

- **State Department**

- Wait Times for Interviews

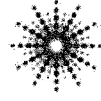
- **USCIS**

- Lengthy Processing Times

- **DHS**

- Improved Oversight Needed

76



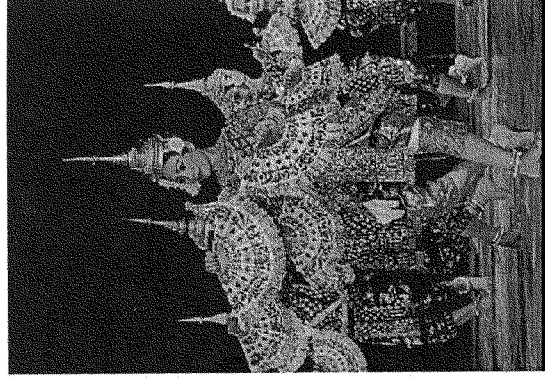
Association of Performing Arts Presenters

Recommendations:

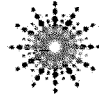
➤ **State:** Multiple
Consulate Interview
Locations

➤ **USCIS:** Upgraded PPS
process for nonprofit arts
organizations

➤ **DHS:** Leadership in
managing the process

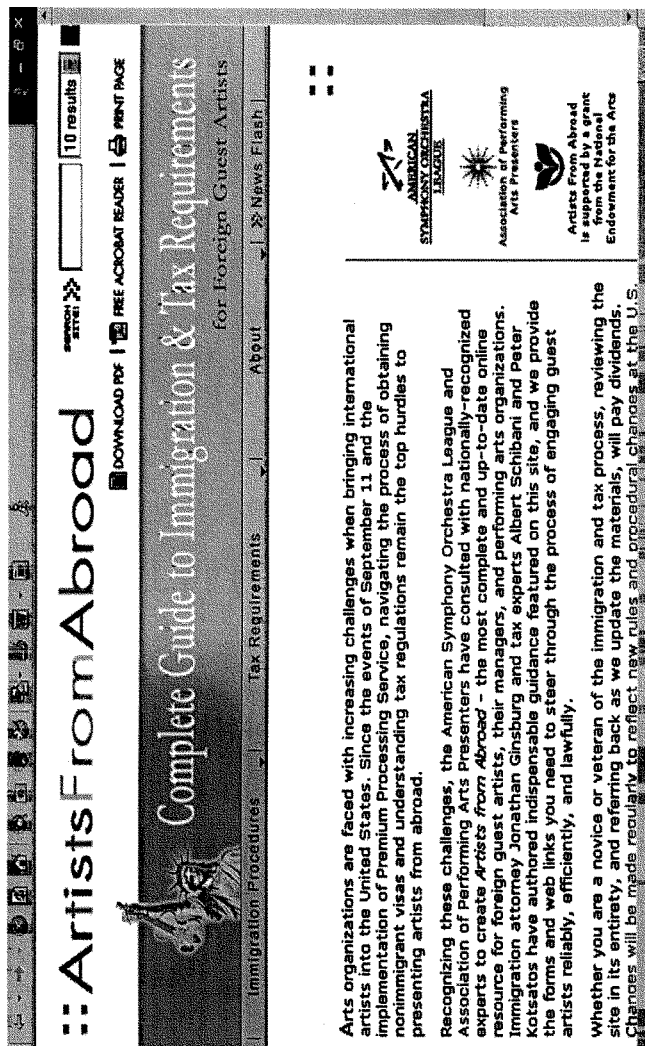


The Spirit of Cambodia



Association of Performing Arts Presenters

www.ArtistsfromAbroad.org



The screenshot shows the homepage of the website **Artists From Abroad**. The navigation menu includes links for **Immigration Procedures**, **Tax Requirements**, and **About**. A search bar at the top right shows **10 results**. Below the navigation menu, the main heading is **Complete Guide to Immigration & Tax Requirements for Foreign Guest Artists**. The main content area features a paragraph about the challenges of bringing international artists into the United States, followed by a section titled **Recognizing these challenges** which mentions the American Symphony Orchestra League and the Association of Performing Arts Presenters. A sidebar on the right contains logos for the **AMERICAN SYMPHONY ORCHESTRA LEAGUE**, the **Association of Performing Arts Presenters**, and **Artists From Abroad**, which is noted as being supported by a grant from the National Endowment for the Arts.

Artists From Abroad 10 results
DOWNLOAD PDF | FREE ACCOUNT READER | PRINT PAGE

Complete Guide to Immigration & Tax Requirements

for Foreign Guest Artists

Immigration Procedures | Tax Requirements | About

Arts organizations are faced with increasing challenges when bringing international artists into the United States. Since the events of September 11 and the implementation of Premium Processing Service, navigating the process of obtaining nonimmigrant visas and understanding tax regulations remain the top hurdles to presenting artists from abroad.

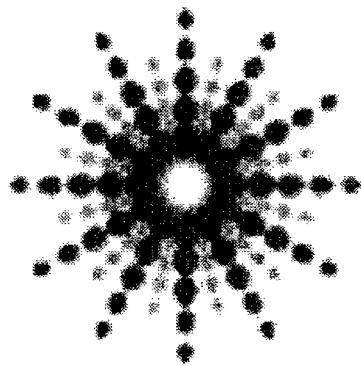
Recognizing these challenges, the American Symphony Orchestra League and Association of Performing Arts Presenters have consulted with nationally-recognized experts to create *Artists from Abroad* - the most complete and up-to-date online resource for foreign guest artists, their managers, and performing arts organizations. Immigration attorney Jonathan Ginsburg and tax experts Albert Schibani and Peter Koteles have authored indispensable guidance featured on this site, and we provide the forms and web links you need to steer through the process of engaging guest artists reliably, efficiently, and lawfully.

Whether you are a novice or veteran of the immigration and tax process, reviewing the site in its entirety, and referring back as we update the materials, will pay dividends. Changes will be made regularly to reflect new rules and procedural changes at the U.S.

AMERICAN SYMPHONY ORCHESTRA LEAGUE
Association of Performing Arts Presenters
Artists From Abroad
is supported by a grant from the National Endowment for the Arts



Association of Performing Arts Presenters



Association of Performing Arts Presenters

www.artspresenters.org

Chairman TOM DAVIS. Thank you very much.
Mr. Slater.

STATEMENT OF DENNIS SLATER

Mr. SLATER. Chairman Davis, members of the committee, thanks for the opportunity to testify today. I'm the president of the Association of Equipment Manufacturers and the past chairman of the International Association of Exhibition Management. AEM is a trade association for the manufacturers of off-road equipment, products and services used worldwide in the construction, agricultural, mining, forestry, and utilities fields.

My testimony today focuses on two major trade shows we produce. These are CONEXPO-CON/AGG, the largest trade show in the Western hemisphere for the construction industry, held in Las Vegas, and the International Construction Utility Equipment Expo [ICUEE], the leading utility construction expo held in Louisville.

Our trade shows bring thousands of international buyers and sellers together to see and purchase millions of dollars in equipment. CONEXPO-CON/AGG attracted more than 124,000 attendees to Las Vegas, including 21,000 international visitors. We make an extra effort to bring international buyers to CONEXPO-CON/AGG, particularly from China and India, two of our largest markets. We could be much more successful if qualified international business prospects didn't face problems obtaining visas.

As an example, a 40-member delegation from India had nearly half of its members refused visas, while 12 delegates canceled their visa appointments due to difficulties. Most said that they would attend trade shows in Europe and Asia instead of our U.S. events. In a letter from the Indian delegation leader, he wrote that he was advising his delegates not to attend any trade shows in the United States in the future. He also expressed disappointment with the treatment the delegates received at the U.S. consulate. He commented that the U.S. embassy does not want to promote business between the two countries.

Our staff in Milwaukee and our branch office in Beijing dedicate a considerable effort assisting visa applicants in China. We had 796 applicants work through our offices to obtain visas for CONEXPO-CON/AGG; 161, or 20 percent, were denied visas. And additional 84 applicants decided not to attend due to the visa process. The applicants that did do the process experienced long wait times between application and interview and found the interviews to be perfunctory at best.

Our Indian and Chinese applicants are not alone in these experiences. A delegation from Ecuador arrived at their interviews, at significant personal expense, with invitation letters, brochures, financial statements, only to be told the consulate didn't know anything about our event and didn't see a need for the attendees to come to CONEXPO-CON/AGG—this, despite the fact that CONEXPO-CON/AGG is listed on the State Department's Internet data base of key U.S. trade events and has the support of the U.S. Department of Commerce as a participant in the International Buyer Program. Although there were personal letters from AEM and intervention by DOC, the appeal was denied.

In a delegation of more than 40 contractors Romania only 14 received visas. The others were rudely told that they didn't expect them to return to Romania if they were granted visas.

At our ICUEE show, a delegation organizer from India complained that their visa applicants had to wait a minimum of 3 months for an interview appointment. Applicants reported that they were rarely asked more than a handful of questions and that consular officers appeared poorly prepared for the interviews despite the time and expense of the applicants.

Once again, many of these applicants will attend competitors' shows in Europe and Asia and will never again make an effort to attend U.S. trade shows.

AEM has also been forced to allocate considerable resources on the application process and away from our promotion efforts to bring international customers to the United States.

We would like to offer some suggestions to improve the process. First, the State Department should allocate more staff to high-applicant posts to reduce wait times and provide additional training to alleviate charges of rudeness and inconsistency. The State Department also should prepare applicants more thoroughly for the interviews. State should also make reasons for visa refusals more transparent. And the posts should differentiate business visa applicants by establishing business windows, set times and keep appointments. Finally, there should be a streamlined process for business applicants who have received temporary business visas in the past, for applicants who are regular trade show attendees.

I thank you for the opportunity to testify and look forward to your questions.

[The prepared statement of Mr. Slater follows:]

82

Testimony of

Dennis J. Slater

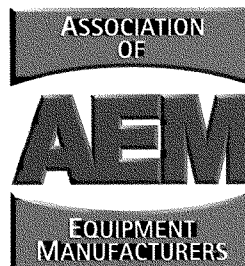
President, Association of Equipment Manufacturers

Before the

Committee on Government Reform

United States House of Representatives

April 4, 2006



The Association of Equipment Manufacturers (AEM) is the North American-based international trade group providing innovative business development resources for manufacturers of equipment, products and services used worldwide in the construction, agriculture, forestry, mining and utility fields. AEM also owns or co-owns and produces several international trade exhibitions which are the industry leaders for their market segments.

**Statement of Dennis Slater, President, Association of Equipment Manufacturers
before the House Government Reform Committee**

April 4, 2006

Chairman Davis, Ranking Member Waxman, Members of the Committee, thank you for the opportunity to testify about problems with the visa process. As a trade show producer, these problems have caused difficulties for the Association of Equipment Manufacturers (AEM) in getting international attendees at our recent shows.

My name is Dennis Slater, and I am the President of AEM and the Immediate Past Chairman of the International Association of Exhibition Management. From our experiences working to bring international visitors to the U.S. to purchase equipment at our trade shows, we believe that the visa process is inconsistent, expensive and not transparent for foreign visitors and U.S. companies alike. The United States seems to be turning away large numbers of potential customers from the many dynamic developing economies in the world, and sending them directly to our competitors in Europe and Asia. Although we support the government's focus on border security, we believe that there are a number of ways to reform the consular process that would increase consistency and transparency for applicants and sponsors without harming and perhaps even increasing security.

AEM is the international trade and business development resource for companies that manufacture equipment, products and services used worldwide in the construction, agricultural, mining, forestry, and utility fields, headquartered in Milwaukee, Wisconsin. We see our role as providing a variety of trade association services on a global basis to our members, including education and training services, statistical and market trend analyses, government relations, technical and safety information, international marketing support and, most importantly, trade show organization and management. In fact, our trade show services are responsible for a large part of our revenue, which allows us to employ nearly 50 people in Milwaukee and provide many of the other services for our member companies.

Although we co-own and produce other trade shows, my testimony today will focus on the three shows held in the last year. AEM is the owner and producer of CONEXPO-CON/AGG, the largest trade show in the Western Hemisphere for the construction, aggregates, and ready mixed concrete industries. This show is held every three years in Las Vegas, most recently in March 2005. We also own and produce the International Construction & Utility Equipment Exposition, (ICUEE), the equipment industry's premier show for outdoor equipment demonstration which is held every other year in Louisville, Kentucky and most recently in September 2005. We co-own and produce the World of Asphalt (WOA), which was held last month in Orlando. Our member companies and exhibitors do millions of dollars of business during these trade shows.

For this reason, AEM has ensured since 1981 that CONEXPO-CON/AGG has been a participating show in the Department of Commerce's (DOC) International Buyer

Program (IBP), which helps to bring thousands of international buyers each year to meet with U.S. companies at major trade shows in the United States. Through this program, the DOC and its Foreign Commercial Service officers promote international buyers' attendance at U.S. trade shows in order to promote U.S. exports. The IBP has been a valuable resource for AEM to attract both exhibitors and international buyers to our trade show.

China and India are two of the largest markets in the developing world, with an increasing appetite for equipment to improve their physical infrastructure and agricultural productivity. Unlike your average consumer good, equipment is a major financial investment with significant transportation costs, and, like your average car buyer, our members' customers like to kick a few tires before making such an investment. For most of our small- and medium-sized members, it is not possible to ship a piece of equipment for pre-purchase inspection, nor is it economically feasible to fly in many potential customers. For these companies, and many others, trade shows function as a way to reach potential customers- including international customers- for one reasonably low price. With such interest among our members in selling in China and India, we put in an extra effort to bring those buyers to CONEXPO-CON/AGG, ICUEE and WOA.

Because we anticipated difficulties for our all our international attendees, we encouraged them to apply for their B-1 visas six months in advance of the show, but no later than three months. We provided official letters of invitation and supporting materials about the show to every attendee, ensured that our events are listed on the State Department's internal calendar for international events, and worked closely with the DOC and its Foreign Commercial Service.

For CONEXPO-CON/AGG in particular, I had one staff member in Milwaukee working exclusively on facilitating international visitors' applications, and additional staff in our China office working with applicants and the appropriate consulates to monitor and assist with applications. Through the hard work of my staff, nearly 21,300 international attendees visited CONEXPO-CON/AGG last March.

We did however experience a number of unfortunate and disappointing problems. In India, for example, nearly half of one 40-member delegation was refused visas and 12 delegates decided to cancel their visa appointments altogether due to the difficulties experience by their peers. Most have decided to attend rival trade shows in Europe, where many of our American member companies cannot afford to exhibit. In a letter to AEM, the Indian delegation leader wrote that they were advising their members not to attend any U.S. trade shows in the future, expressed disappointment at the treatment their members received at the U.S. consulate, and suggested "the U.S. embassy does not want to promote business between the two countries."

Because we had staff in China dedicated to tracking and assisting on visa applications, we have more hard data on the Chinese experience. We had 796 applicants work through our China and Milwaukee offices to obtain visas to attend CONEXPO-CON/AGG. Many others were invited directly by our member company exhibitors, but we do not have data

on those applications. Of those 796 applications, 161, or 20.23%, were denied visas. An additional 84 applicants, or 10.6%, decided, in the end, not to attend our show.

We strongly feel that a 20% refusal rate is far too high. Many of our applicants, regardless of whether they received a visa or not, found the process to be time-consuming and expensive, experienced long wait times between application and interview, and found their interviews perfunctory at best. What is clear from viewing the data, however, is that there is a great deal of variability among consulates and some striking patterns of refusals related to age and gender. We share this information not to cause problems for the consulates, who have often been helpful in responding to inquiries from AEM staff, but in the hopes that this can highlight some of the process problems we believe need to be resolved.

In part, our analysis of applicants found that they experienced significantly higher refusal rates in Shanghai than Beijing, a startlingly high refusal rate in Chengdu and an interesting low one in Guangzhou. Women were far more likely than men to be refused visas overall, while women under forty were twice as likely to be refused visas as their male counterparts.

In terms of the various consulates, 382 of our applicants applied through the Beijing office and 17.8% were refused. This is the office with the most capacity and with which AEM's China office has the longest relationship. In Shanghai, there was a 26.2% refusal rate for our 237 applicants. In Shenyang, 8 of our 33 applicants (24.2%) were rejected; in Guangzhou, 2 of 95 applicants (2.1%); and in Chengdu, 21 of 49 applicants (42.9%) were rejected.

When we began looking at our data more closely, some disturbing patterns emerged. For instance, 29.8% of the 131 women who applied for visas to come to CONEXPO-CON/AGG were refused, while only 18.4% of the 665 men were unable to get visas.

The average age of the applicants overall was 42.05; the median age was 41, when the age was known. Of those that received visas (when age was known), the average age was 42.32; for those rejected, it was 40.93, indicating that a larger percentage of younger applicants were rejected than older. We also examined refusal rates by age group, finding that applicants under 30 were refused in 31.1% of cases; those under 40 were refused in 15.2% of cases; those under 50 were refused in 23.8% of cases; those under 60 were refused in 18.7% of cases and those over 50 were refused in 10.5% of cases.

Furthermore, when our data was broken down by gender and age group, disparities became even starker. Nearly 44% of women under 30 were refused visas, while only 19.4% of men were. Between the ages of 30 and 39, 22.5% of our female applicants were refused visas while only 13.5% of our male applicants were.

But our Indian and Chinese applicants were not alone in these experiences. A delegation from Ecuador arrived for their interviews- at significant personal expense- with invitation letters, brochures and financial statements only to be told that "the consulate didn't know

anything about our event and didn't see a need for the contractor to attend," despite CONEXPO-CON/AGG being listed on the State Department's intranet database of key U.S. trade events with large international attendance. Despite personal letters from AEM staff and the intervention of DOC staff, their appeal was denied for the same reason. In a delegation of more than 40 contractors from Romanian, only 14 received visas with the bulk being told- in their experience, rather rudely- that the consular officers did not expect them to return if they were granted visas for the show. Many of our member companies, attempting to bring customers to the show had similar experiences all over the world.

AEM members that exhibit regularly at the ICUEE show, last held in September 2005, strongly value the participation of international buyers. Although we have not compiled statistics on visa applications similar to that for CONEXPO-CON/AGG, my staff in Milwaukee and China have confirmed that the visa process is a continuing problem for our international visitors, particularly in China and India.

For instance, in India, a delegation organizer wrote us to complain that their visa applicants had to wait a minimum of three months for an interview appointment. According to the Government Accountability Office (GAO) study, the State Department itself considers any consistent delays in excess of 30 days significant¹, and yet there are consistently reported delays of more than 90 days at most Indian consulates. Furthermore, the applicants reported that they are rarely asked questions about their businesses, the consular officers appear to rarely read supporting materials brought to the interviews, and that their interviews (despite the time and expense involved for applicants) are treated as perfunctory precursors to denials. As is the case with one of our CONEXPO-CON/AGG delegations, many of these applicants will attend competitor trade shows in Europe or Asia, and likely never again make an effort to attend those produced by AEM.

Although the WOA show is significantly smaller, it still draws a significant number of international attendees. The largest delegation was from China, where AEM staff remains significantly involved in the visa application process. In the end, AEM assisted 16 applicants who applied for interviews, and 25% were rejected. In Beijing, where the State Department has implemented a number of reforms, only one of our nine applicants was rejected. In Shanghai, one of our five applicants was rejected and in Shenyang, both our applicants were rejected. Although this is obviously a significantly smaller sample size, this pool of applicants' results is statistically similar to the results from CONEXPO-CON/AGG applicants, where refusal rates were significantly higher in Shanghai and Shenyang than in Beijing.

All businesses- mine or my members'- are dependent on transparency and consistency in government policy. It has been our experience in the last year that the visa process is neither transparent nor consistent, and I think our data and anecdotal evidence bears this out. This lack of transparency and consistency has required me to allocate my business'

¹ Government Accountability Office. Report to Congressional Committee. "Strengthened Visa Process Would Benefit from Improvements in Staffing and Information Sharing." September 2005. Page 17.

resources to visa application tracking and advocacy and away from promotion and attendee recruitment efforts.

We have several suggestions about how to improve upon the current process.

State Department should allocate more staff to high-applicant posts and provide more training. Many of the consistency problems and the problems with wait times and perceived rudeness might well be solved by the allocation of more staff and by providing more training to incumbents, as suggested by the aforementioned GAO study.

State Department should also prepare applicants more thoroughly for the focus of the interview. We have received many stories about applicants arriving with a business case for attending a trade show, only to be asked personal questions about children, marital status and the like. We suggest more public outreach in these countries by the State Department about what information needs to be provided in order to satisfy section 214(b) of the Immigration and Nationality Act which assumes all applicants are immigrants unless the consular officer is otherwise convinced of an applicant's nonimmigrant status.

Make 214(b) refusals more transparent. AEM has asked in letters to Secretaries Rice and Chertoff (see attached) that State and DHS take measures to reduce the seemingly arbitrary use of section 214(b) denials as a catch-all category by establishing specific criteria for 214(b) denial, providing for consular officer explanation of denials, and building accountability into the system.

Differentiate business visa applicant procedures. Requiring the use of the best practices described in State cable 225608, October 10, 2004, including the establishment of a "Business Window" at posts, time block set-asides, business facilitation units, and group appointments would help our business and my members' potential customers tremendously.

There should be a streamlined process for business applicants who have received and complied with the terms of temporary business visas in the past- like regular trade show attendees. Many trade show attendees are regulars at trade shows over the years, and yet are subjected with each application to the same rigorous screening as an unknown applicant. It might be a better allocation of limited government resources to develop a frequent-applicant program, like the frequent-traveler program in the United States, allowing frequent business visitors to the United States to undergo one thorough screening and then limit the number of interviews necessary for additional visas.

I appreciate the opportunity to testify and look forward to your questions.

CONEXPO-CON/AGG Chinese Attendee Visa Application Data

Total Applicants through AEM: 796
 Applicants Rejected 161 (20.23%)
 Refused to attend after application 84

By Consulate

	Beijing	Shanghai	Guangzhou	Chengdu	Shenyang
Total	382	237	95	49	33
Rejected	(17.8%) 68	(26.16%) 62	(2.11%) 2	(42.85%) 21	(24.24%) 8
Won't Attend	44	23	8	6	3
Unknown	2	1	3	0	0

By Gender

	Women	Men
Total	131	665
Rejected	(29.77%) 39	(18.35%) 122
Won't attend	14	70
Unknown	1	5

By Age²

	Under 30	30-39	40-49	50-59	60+	unknown
Total	77	210	290	123	38	58
Rejected	(31.17%) 24	(15.24%) 32	(23.79%) 69	(18.7%) 23	(10.53%) 4	(13.79%) 8
Won't go	4	10	41	21	2	6
Unknown	0	5	0	1	0	0

Average Age of Applicants 42.03 years
 Median Age of Applicants 41 years
 Average Age of Accepted Applicants 42.32 years
 Median Age of Accepted Applicants 46 years
 Average Age of Rejected Applicants 40.93 years
 Median Age of Rejected Applicants 41 years

² Age as of date of CONEXPO-CON/AGG 2005, March 15-18, 2005)

By Age and Gender*Under 30*

	Women	Men
Total	41	36
Rejected	(43.9%) 18	(19.44%) 7
Won't attend	1	3
Unknown	0	0

30-39

	Women	Men
Total	40	170
Rejected	(22.5%) 9	(13.53%) 23
Won't attend	6	4
Unknown	1	4

40-49

	Women	Men
Total	33	257
Rejected	(27.27%) 9	(23.35%) 60
Won't attend	6	35
Unknown	0	0

50-59

	Women	Men
Total	7	116
Rejected	(14.29%) 1	(18.97%) 22
Won't attend	1	20
Unknown	0	1

60+

	Women	Men
Total	5	33
Rejected	(20%) 1	(9.09%) 3
Won't attend	0	2
Unknown	0	0

Unknown

	Women	Men
Total	5	53
Rejected	(20%) 1	(13.21%) 7
Won't attend	0	6
Unknown	0	0

The Honorable Condoleezza Rice
 Secretary of State
 United States Department of State
 2201 C Street, NW
 Washington, DC 20520

The Honorable Michael Chertoff
 Secretary of Homeland Security
 United States Department of Homeland Security
 Naval Security Station
 Nebraska and Massachusetts Avenues, NW
 Washington, DC 20528

Dear Secretary Rice and Secretary Chertoff:

We are writing to express our appreciation for the progress your departments have made in improving administration of U.S. business visa policies and to encourage further action to facilitate the entry of business travelers.

As you know, since 9/11, significant changes have been made to improve the security of the visa process. These changes include increased security checks of certain visa applicants, the collection of biometric data to verify identity, and the institution of mandatory in-person interviews for most visa applicants, all of which have added time and uncertainty to the application process.

While we welcome the improvements in security these changes have brought, they have also resulted in many difficulties for U.S. companies trying to operate in a global marketplace where the ability to bring our customers, actual and potential, and our foreign employees here for brief periods is essential to remaining competitive. Companies utilize the B-1 and other visas to facilitate the entry of suppliers, customers, foreign employees, business partners, and conference and trade show participants. Simply put, these visas allow U.S. companies to conduct business with the world. Our customers and employees have choices in this highly competitive environment, and if they cannot travel to the United States or feel unwelcome here, we have quickly learned they take their business or talent elsewhere.

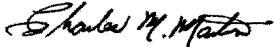
We have had an ongoing dialogue with officials in both your departments that has resulted in some useful improvements, and we welcome its continuation. At the same time, we have also developed a list of suggestions for additional steps we support to produce further improvements in the system. Those that can be implemented without legislation include:

- 1) Reinstitute visa revalidation by waiving the interview requirement in appropriate, low risk, cases and permitting those already working in the United States to renew visas without leaving the United States.
- 2) Undertake regular interagency review of the Technology Alert List (TAL) every two years to remove non-critical technologies and make the TAL simpler to use.

- 3) Take measures to reduce the seemingly arbitrary use of section 214(b) denials as a catch-all category by establishing specific criteria for 214(b) denial, providing for consular officer explanation of denials, and building accountability into the system.
- 4) Require use of the best practices described in State cable 225608, October 10, 2004, including establishment of a "Business Window" at posts, time block set-asides, business facilitation units, and group appointments. This would help to improve consistency of practice across posts, which remains a problem.
- 5) To the extent possible within existing budgetary constraints, prioritize increased training for consular officers, including training in the TAL and more instruction on when to send an application to Washington for an Security Advisory Opinion and when it is appropriate to make the decision in the field.

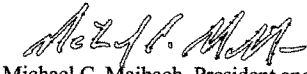
We hope that you will implement these changes in your departments. A number of them would benefit from additional resources (e.g. increased training of consular officers), and we are prepared to work with you and the Congress to ensure appropriate funds are allocated for these efforts. We would welcome an opportunity to meet with you to discuss these proposals further. We will follow-up regarding this request and can also be reached through our designated point of contact on this issue, Bill Reinsch, President, National Foreign Trade Council, at (202) 887-0278 or breinsch@nftc.org.

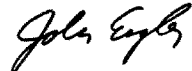
Sincerely,

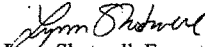

Charles Martin, President
American Chamber of Commerce-China

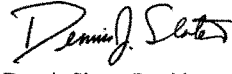

John B. Byrd III, President
The Association for Manufacturing Technology



Ed Rice, President
Coalition for Employment through Exports



Michael C. Maibach, President and CEO
European-American Business Council

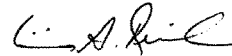

John Engler, President and CEO
National Association of Manufacturers


Eynn Shotwell, Executive Director
American Council on International Personnel


Dennis Slater, President
Association of Equipment Manufacturers

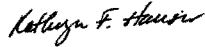

Gary Shapiro, President and CEO
Consumer Electronics Association


Rhett Dawson, President and CEO
Information Technology Industry Council

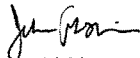

William A. Reinsch, President
National Foreign Trade Council



Ken Wasch, President
Software & Information Industry Association



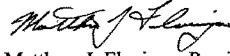
Kathryn F. Hauser, U.S. Executive Director
Trans-Atlantic Business Dialogue




John Frisbie, President
U.S.-China Business Council



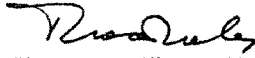
Ron Somers, President
U.S.-India Business Council



Matthew J. Flanigan, President
Telecommunications Industry Association



R. Bruce Josten, Executive Vice President
U.S. Chamber of Commerce



Thomas M.T. Niles, President
United States Council for International Business



Eugene K. Lawson, President
U.S.-Russia Business Council

The following companies have indicated they also support the views expressed in this letter:

Agilent Technologies
Applied Materials, Inc.
ArrayComm, Inc.
The Boeing Company
ChevronTexaco
Hill and Knowlton
Eastman Kodak Company
EDS
Exxon Mobil Corporation
The McGraw-Hill Companies
Motorola, Inc.
NCR Corporation
Procter and Gamble
Rockwell Automation
Rockwell Collins
Texas Instruments
Thiel Audio Products Co.
Tyco International
United Technologies Corporation

Chairman TOM DAVIS. Thank you very much.
Mr. Schofield.

STATEMENT OF KEVIN SCHOFIELD

Mr. SCHOFIELD. Chairman Davis, members of the committee, thank you for the chance to testify today.

America's need for the world's most talented persons has never been greater, yet high-skilled emigration to the United States is in crisis. The obstacles that face business visitors, students, and talented workers seeking to travel to the United States pose a direct threat to American competitiveness.

Microsoft, like many American companies, competes on a global stage. As we work to develop world-class software, we also need to involve experts from other countries in meetings here in the United States. Yet we have suffered severe disruptions in recent years from inordinate and unpredictable delays and denials of business visitor visas.

It is also crucial that our universities continue to attract and educate the best students from around the world. They fuel innovation, creativity, and economic strength. The changes that have taken place in the visa process have created a disincentive to study in the United States. When we make it difficult to study here, other countries gain and we lose.

Microsoft and other major U.S. employers have also faced unprecedented difficulties in bringing the best and most accomplished foreign nationals into our workplaces. Visa appointment delays, repeat trips to consulates to provide additional information, and inappropriate visa denials increasingly hamper our efforts to recruit the most talented possible work force.

These are pains I feel on an almost daily basis as I coordinate technology transfers and collaboration between Microsoft's 500 researchers around the world and its development teams. Microsoft, of course, recognizes that heightened vigilance in the immigration system is essential to protect our national security. But at the same time, we must protect the competitiveness of our national economy. But we can have both secure borders and a visa process that gives innovators the room to succeed.

Unfortunately, we are nowhere near where we should be. Consider Chennai, India. The wait time there for an appointment for any type of temporary visa is a staggering 163 days. The pace of today's world simply does not provide 5 months of lead time to wait for a visa appointment. Chennai is but one example, and the difficulties with the visa process are often the most pronounced in the very countries that are the most critical to the future growth of Microsoft and other major U.S. businesses.

Getting an appointment is only the first challenge in the visa application process. Once a person is finally able to apply, a whole new set of challenges begins, as I describe in my written statement.

There are many ways to better balance protection and prosperity in the visa process. For example, the United States should increase dramatically the resources available for visa interviews and processing. Streamline the decisionmaking process, including requiring the agencies involved in the security clearance process to act within a specific timeframe. Establish a clear and uniform way to address

business emergencies, where circumstances do not permit visa applications through normal wait times. And alter or eliminate the automatic presumption of immigrant intent in Section 214(b) of the INA.

The principal focus of this hearing is on the difficulties that surround the process of getting a visa. The larger problems we are discussing today stem equally from choices about the supply of visas. The supply is nowhere near what is needed. Just 3 weeks ago, Bill Gates came to Washington expressly to discuss these urgent problems with Members of Congress. Indeed, these are Congress's choices about visa supply, and Congress can fix them. But let there be no doubt, without reform American competitiveness will suffer. Other countries will gain from the international talent that U.S. employers cannot hire or retain. And it's crystal clear that other countries are shaping their immigration policies to attract this talent. U.S. employers will be forced to move their functions to places where they can find or import the highly skilled workers that they need.

I understand that the Senate is considering immigration reform legislation that would provide real relief on these issues but that the House immigration bill does not. Congress must act to ensure that the Nation maintains both its security and its intellectual and economic strength. The ability to bring the best and brightest from around the world into this country—to conduct business, to study, to join our work force—is indispensable. Yet serious obstacles stand in the way of that goal, many self-imposed.

Microsoft appreciates the committee's efforts to eliminate these unnecessary obstacles wherever possible. And we stand ready to work with you in any way that we can.

Thank you.

[The prepared statement of Mr. Schofield follows:]

Testimony of

Kevin Schofield

General Manager for Strategy and Communications, Microsoft Research

On Facilitating Travel to the United States in the National Interest

Before the House Committee on Government Reform

Tuesday, April 4, 2006

Rayburn House Office Building

Mr. Chairman, I am grateful for the opportunity to testify today. Microsoft commends the Committee for its focus on this critical issue. The obstacles that face business visitors, students, and talented workers seeking to travel to the United States pose a problem of serious and damaging proportions. These obstacles are a direct threat to American competitiveness.

As you know, Microsoft, like many American companies, competes on a global stage. We have subsidiaries, affiliates and business partners throughout the world. Projects to develop new products and to improve existing products frequently involve work not just in the United States, but in multiple foreign countries as well. To conduct our operations successfully, we often require in-person meetings of foreign nationals at our headquarters in Redmond, Washington, and at other U.S. locations. In many instances, a face-to-face meeting is necessary for team-building and the creative process

required to develop world-class software; at other times, it is because this is the best and most secure way to preserve trade secrets and intellectual property. For decades, legitimate business travel of this kind has been a corner-stone of American economic prosperity, and these business visits are expressly recognized as a lawful basis for the temporary entry of foreign nationals into this country. Despite this fact, our company's operations have been severely disrupted by inordinate, unpredictable and seemingly random delays and denials of Business Visitor (B-1) visas to deserving foreign nationals whom we have invited to meet with us in the United States.

Likewise, it is crucial to the interests of Microsoft, and to countless others in this country who depend upon the highest intellectual capital, that our schools continue to attract and educate the best students from around the world. Those students feed into our nation's laboratories, our hospitals, and our businesses. They fuel innovation, creativity, and economic strength. Offering the world's best and brightest students the opportunity to study in the United States is perhaps the most important means of ultimately attracting the world's best and brightest scientists, doctors, researchers, and other highly skilled workers to the United States. The changes that have taken place in the visa process have both altered the perception of the desirability of study in the United States and have increased the difficulty of coming here for those students who wish to do so. When we make it difficult to study here, other countries gain, and we lose.

This problem is compounded by the fact that other countries, including Canada, the United Kingdom, and others are sometimes viewed as having immigration policies

that are more straightforward, more welcoming, and less bureaucratic than that of the United States. When faced with a choice between a country with immigration policies that appear open and welcoming, and one with policies that sometimes appear difficult and closed, the world's best and brightest students may ultimately decide that the difficulties of studying in the United States outweigh the benefits. This kind of result would be a serious blow to the long-term competitiveness of the United States in the global marketplace.

In addition to business visitors and students, Microsoft and other major U.S. employers have faced unprecedented difficulties in bringing the best and most accomplished foreign nationals into the country to join our workforces. Putting aside for a moment the statutory limits on visa availability, such as the H-1B cap, we have increasingly seen visa appointment delays, repeat visits to consulates to provide additional information, and inappropriate visa denials hamper our efforts to recruit the most talented possible workforce. Even after a foreign national is working in the U.S., visa issues often remain an ongoing concern. Foreign nationals worry about becoming stranded outside of the U.S. while attempting to renew a visa stamp, and the delays associated with obtaining a visa stamp sometimes require international business travel to be postponed or avoided altogether.

Microsoft, of course, recognizes the critical need in the post-Sept. 11 era to ensure that those who want to harm the United States and its citizens are prevented from entering this country. Both Congress and the Administration have gone to great lengths

to address this need. Today's visa process has been changed to require face-to-face interviews in nearly every situation. Expanded security checks, often extensive and protracted, have been put into place. Documentary and technological requirements for visas and other travel documents have been heightened. While this vigilance is necessary to protect our national security, we at the same time must protect the competitiveness of our national economy. Maintaining national security and ensuring that those who have legitimate reasons to come to the United States can do so without unreasonable delays are not mutually exclusive goals. We can have both safe, secure borders and an efficient, workable visa application and issuance process.

Despite the earnest and often productive efforts of the affected agencies to facilitate visa issuance and travel to the United States, we are unfortunately nowhere near where we should be as a country. One vivid example is the sheer length of time it takes simply to get an appointment to apply for a visa in Chennai, India. There, the wait time for an appointment today for any type of temporary visa – visitor, student, or work-based – is a staggering 163 days. The pace of today's business world simply does not provide 163 days of lead time to wait for a visa appointment in order to allow time-sensitive business projects to move forward, and the result is that Microsoft and other businesses must often do without critical members of a project team because of visa delays. Chennai is but one example – in numerous consulates around the world, it takes weeks or months to get a visa application appointment. We do not believe this to be a function of unwillingness on the part of the State Department or its consulates; we see signs that they are trying, within their ability, to address these very serious issues. Rather, we believe

this to be the result of a grave insufficiency of resources devoted to a function that is critical to our national interests.

The difficulties with the visa process are often the most pronounced in the very countries that are the most critical to the future growth of Microsoft and other major U.S. businesses. Microsoft has critically important operations in India, China, and other developing countries, and we have numerous ongoing joint-development projects involving Microsoft employees in the U.S. working in collaboration with Microsoft employees in India, China, and other countries. The success of these projects depends in a substantial way on the ability of our U.S. project teams to collaborate both in the U.S. and abroad with our foreign project teams, and delays in the visa process are a major impediment to these projects.

Obtaining an appointment is only the first of many challenges in the visa application process. Once an applicant for a business visitor visa finally is able to apply for that visa, a whole new set of challenges begins. Nearly five years after 9/11, there still is not a sufficiently orderly and predictable process by which we can determine the likely eligibility of a particular individual or class of business invitees to receive B-1 visas and attend scheduled meetings. The same is too often true for applicants for other types of visas, including applicants who are critical employees or recruits.

While the business visit problem has been particularly acute for those from China, Russia, India, and the Czech Republic, Microsoft has experienced difficulties with B-1 visa applications on a virtually global basis. These include:

- The extreme delays associated with the post-9/11 requirement that almost all nonimmigrant visa applicants must be scheduled and appear for an in-person visa interview;
- The requirement that all business visitor visa applicants, even those employed by a foreign subsidiary or partner of a major U.S. corporation, must overcome an automatic presumption that they intend to remain permanently in the U.S. in violation of their visitor visa, with the visa being issued only if they can prove a negative, i.e., that they don't intend to overstay their visa and remain forever in the United States;
- The lack of accurate information on procedures and timeframes for security clearances, as well as the fact that security clearances must be repeated anew every time a B-1 visa application is submitted, regardless of how many visas have been issued to the applicant in the past. This uncertainty regarding timeframes impedes the reliable scheduling of business meetings requiring the attendance of visitors from many countries;
- Inadequate inter-agency coordination and the lack of any required response deadline for government agencies that receive clearance requests from U.S. consular officers;

- The problem of passports held “captive” at a U.S. consular post while clearances are processed, thereby preventing the submission of visa applications for business visits to other countries (if the passports are retrieved from the American Consulates for this purpose, the U.S. visa-clearance process is started afresh, and applicants go the end of the queue);
- The seemingly random nature of visa approvals, denials or consular requests for additional information from employees of Microsoft’s foreign subsidiaries, especially our researchers and engineers, who hail from the same country and possess similar expertise, education and career histories but nonetheless receive disparate treatment; and
- The seeming unwillingness of some consular officers to consider additional documentation provided by visa applicants in the course of a visa interview or when such documentation is submitted after an initial refusal of the visa.

In our view, national security – without doubt a top national imperative – must still be reasonably balanced with the needs of commerce, study, and innovation. President Bush has recognized this:

"America is not a fortress; no, we never want to be a fortress. We're a free country; we're an open society. And we must always protect the rights of our law -- of law-abiding citizens from around the world who come here to conduct business or to study or to spend time with their family."

In January, Secretaries Rice and Chertoff announced a joint initiative to better facilitate travel to the United States and improve border security. The three-part plan would leverage technology to improve visa and travel access; modernize travel documents; and create more advanced traveler screening capabilities. Among its highlights, the initiative would expand programs to reduce visa appointment and processing wait times; provide for the experimental use of videoconferencing for visa interviews; establish a private sector advisory board to identify areas for improvement; provide for improved information sharing between the Departments of State and Homeland Security; create a pilot program to test "paperless" visa processing; and establish improved mechanisms to redress traveler screening problems.

We commend the Administration for its positive recognition of the importance of facilitating legitimate business, academic, and other travel to this country. While this is an important step in the right direction, it is a long way from success. The success of this joint initiative will depend on the level of commitment shown by both Departments in converting a broad initiative into a detailed set of programs.

There are many solutions available to Congress and the Administration that would achieve in the visa process an optimal and reasonable balance between U.S. national protection and prosperity. Changes that could have an immediate positive impact, while in no way reducing the level of security in the visa screening process, include:

- Increase significantly the resources available to the State Department to expand the corps of consular officers to conduct visa interviews and handle application processing, including giving each consular officer the time to fully question each visa applicant and review any supporting documentation provided by the applicant. Under the current system, many visa applicants are given less than 5 minutes to explain the purpose of their travel and to present supporting documentation;
- Add the infrastructure needed to increase visa interview capacity, both in terms of physical space and location, and leverage technology in order to allow for visa interviews to be conducted remotely where appropriate;
- Streamline the visa issuance decision making process, including requiring the agencies involved in the security clearance process to respond to requests for security clearance decisions within a specific timeframe;
- Utilize technology to match security clearances with individuals, not applications, so that the same security clearance process does not have to be repeated each time an individual applies for a visa stamp;
- Establish a uniform, clearly accessible mechanism to present business emergencies and to facilitate travel when circumstances do not permit visa applications through normal wait times;
- Implement, on a global basis, “prescreening” programs to allow employees of major multinational companies to apply for business visitor visas on an expedited basis; and

- Alter or eliminate the automatic presumption of immigrant intent in section 214(b) of the INA.

Mr. Chairman, while the principal focus of this hearing is on the difficulties that surround the *process* of getting a visa, the problems that have prompted the hearing stem in very significant part from the policies that govern the *supply* of visas. As Microsoft has worked hard to illustrate for Congressional policymakers, America's need for the world's most talented individuals has never been greater, yet high-skilled immigration to the United States is in crisis. Getting the best and brightest into the U.S. workplace is key to the national interest. This ethic of creativity drives the U.S. economy, strengthens U.S. companies in the global marketplace, and creates jobs for American workers and their families.

But U.S. employers cannot get the professional talent they need, either from recruiting of U.S. workers or through the current immigration programs. The annual supply of visas is nowhere near what is needed. Temporary H-1B visas ran out two months before the start of this fiscal year, leaving U.S. employers unable to hire needed professionals for fourteen months. Wait times for employment-based green cards reach five years, and longer for nationals of India and China.

Without reform, American competitiveness will suffer. Other countries will gain from the international talent that U.S. employers cannot hire or retain. U.S. employers

will be forced to move their functions to places where they can find or bring (through another country's immigration processes) the highly skilled workers that they need.

The Senate Judiciary Committee has recently reported a bill that would offer excellent short-term solutions to permit U.S. employers to get international talent on the job and relieve the wait for permanent residence for these key employees. The Senate Judiciary Committee's bill would provide critical relief from H-1B visa shortages, by raising the base annual H-1B cap to 115,000 beginning in fiscal year 2007; exempting from the H-1B cap those workers who have earned an advanced degree in science, technology, engineering, or mathematics; retaining the separate existing exemption from the H-1B cap for up to 20,000 workers who have earned an advanced degree (in any field) from a U.S. university; and establishing a market-based cap increase mechanism, so that if the cap is reached in any fiscal year, the cap for the following fiscal year would increase by 20 percent.

The bill approved by the Senate Judiciary Committee would also implement a more welcoming policy toward foreign students by permitting students to work off-campus more easily; authorizing post-curricular employment for optional practical training for longer periods; and creating a new "F-4" student visa for students pursuing an advanced degree in science, technology, engineering, or mathematics. F-4 students would be able to receive a student visa even if they wish to seek permanent residence here after completion of their studies. Their status would last through graduation, up to another year while the student seeks a job in the field of study, and as long as it takes the

government to adjudicate the green card filings. After graduating and finding a job, F-4 students and certain others would be able to begin the green card process, and therefore get work and travel authorization, even if a visa number is not yet available, upon the payment of a \$2,000 fee toward scholarships and training for U.S. workers (80%) and fraud prevention (20%).

Finally, the proposal would provide relief from shortages of immigrant visa numbers. This would be accomplished by exempting certain groups of foreign nationals from the numerical limits on employment-based immigration: holders of advanced degrees in science, technology, engineering, or math (whether from U.S. or foreign universities) who have worked in the United States in a related field for three years with a temporary visa; aliens of “extraordinary ability,” outstanding professors and researchers, and persons who have received a “national interest waiver” of the normal job offer requirements in the green card process, and spouses and children of employment-based immigrants. The proposal would increase the annual worldwide level of employment-based immigrants to 290,000, and make certain adjustments to the way that limit is administered.

Nearly identical provisions are included in an immigration bill introduced by the Senate Majority Leader. We commend both the Senate Majority Leader and the members of the Senate Judiciary Committee for their recognition that these visa shortages, and the damage they do to our competitiveness, are urgent problems that

demand immediate solutions. An immigration bill passed by the House in December would do nothing at all to address these problems.

Beyond these crucial immediate measures, there are a great number of broader reforms that would drive American competitiveness:

- calibrate the annual supply of employment-based green cards to market needs;
- establish a new “pre-immigrant” category of visas for highly-valued professionals whom U.S. employers intend from the outset to hire permanently;
- eliminate discriminatory per-country limits on employment-based green cards;
- eliminate the cumbersome labor certification process for those with advanced educations in science, technology, engineering, or mathematics, and streamline the process for professionals with bachelor’s degrees in those fields;
- eliminate the outmoded presumption of permanent intent for those seeking temporary visas for professional purposes or to study
- eliminate spousal employment bans that inhibit recruitment; and
- eliminate unnecessary interruptions to work and travel that result from processing delays.

Mr. Chairman, the issues before the Committee, and before the Congress, today are absolutely critical to the ability of this country to maintain its position of global leadership in innovation. At the same time the nation strives to maintain its security, it must also strive to maintain its intellectual and economic strength. The ability to bring

the best and brightest from around the world into this country -- to conduct business, to study, to join our workforce -- is indispensable to that effort. Yet there are many serious obstacles to achieving that goal. Many of those obstacles are self-imposed. Microsoft commends the Committee for its efforts to eliminate these unnecessary obstacles wherever possible, and we stand ready to work with you in any way we can.

Chairman TOM DAVIS. Thank you very much.
Ms. Dickson.

STATEMENT OF ELIZABETH DICKSON

Ms. DICKSON. Mr. Chairman, members of the committee, good morning. My name is Elizabeth Dickson. I manage the Global Immigration Services function for Ingersoll-Rand Co., and additionally I chair the Subcommittee on Immigration at the U.S. Chamber of Commerce. My testimony today is on behalf of both my company and the U.S. Chamber of Commerce.

I think everybody in this room understands the need for the increased security initiatives. But America's trade relationships and economic goals depend a great deal on the ability of foreign customers to travel to the United States to visit our manufacturing operations, to inspect products and services they are purchasing, and to negotiate contracts.

Why is this important to us? It's important because our foreign competitors will take business away from us if we do not have a streamlined visa processing system that will enable our current customers and potential customers to come to visit us in the United States.

American companies such as Ingersoll-Rand are looking for promising geographic regions to grow our business. For us, we have identified the Asia Pacific and Latin American regions, and we have expanded our presence in China, India, and Europe over the recent years. Our chairman predicts that in 5 to 10 years, Ingersoll-Rand's annual business growth in East Asia should increase by 20 percent as the company's business focuses to that region.

We have had a substantial presence in China since 1922. Likewise, 80 years ago we established Ingersoll-Rand India. Today IR India has several manufacturing operations in India and employs over 900 people.

We were greatly encouraged by the recent visit of President Bush to India and the surrounding countries. He made it clear that we have significant policy interests in the region and that we should be doing more to promote the economic interests of both countries through workable immigration and trade policies.

We have also been encouraged by the improvements announced in the Joint Vision: Secure Borders and Open Doors information initiatives announced by Secretary of State Rice and Chertoff.

Obviously, the pre-screening partnership with the American Chambers Abroad, the improved security advisory opinion process, and the online visa appointment interviews have helped. However, we continue to experience challenges at the consulates, particularly in India. As some of the other panelists have stated, 163 days to obtain an interview in Chennai, Mumbai is at 162 days, New Delhi at 98. Mexico is at least 100 days in most places. Brazil, a 92-day wait. Paris is currently experiencing 116 days to obtain a visa appointment because they no longer meet the biometric passport requirements.

In addition to delays to getting an interview, processing times to actually obtain the visa afterwards has increased to up to a month in Mexico. So they wait 3 months or 4 months to get a visa ap-

pointment and another month to get their passport back and be able to travel.

The delays impact Ingersoll-Rand's business objectives most severely in India and China. They have caused many of our employees and managers to miss critical business meetings and training sessions in the United States.

Additionally, the new process is to return all visas through the mail. Typical processing days may take 3 to 5 days for those passports to come back. But we have experienced extremely sloppy processing, particularly at the consulate in Chennai. And we have had errors in the visas or incorrect interpretation of immigration law that have caused our applicants to return to the consulate, sometimes two or three times, to correct these errors. Our company has spent \$40,000 in 2005 overcoming incorrect visas that have been issued in India as well as trying to advance appointments at the consulates.

Periodically we think things are improving in India, and they identify that Ingersoll-Rand is an important company to them and we are a familiar company. And then it just slips back into the same treatment. Just recently we had another incorrect application of 212(E), which is a J-1 visa restriction. Incorrect visa restrictions can affect the employee's future travel to the United States and can severely impact our company's product design projects and future employment with those people in the United States.

The Bureau of Consulate Affairs has encouraged business to provide additional evidence to assist consular offices in determining applicants' eligibility. We have actually instituted an internal process whereby we provide additional letters based on a questionnaire we send out to employees and customers to actually pull together the business reason for the travel, why the person qualifies as a business visitor under the different criteria that are listed in the Foreign Affairs manual, and also to help them establish their strong ties to their home countries.

We have tried to work closely with the State Department and the Chamber of Commerce particularly has been encouraged by the Joint Initiative statement that has come out. But we would like to see some sort of a trusted traveler program initiated, a priority visa processing option at some of the consulates. We feel expanded training for consular offices is really a critical issue. And we need to find ways to reduce consular delays sooner rather than later. We can't wait for a new consulate in Hyderabad in 2008.

Additionally, I have outlined a number of things in my testimony that are very specific, but one of the issues that I would just like to raise here is renegotiating the issue of reciprocity. If we can extend out the visas so that people have the full period of duration for a visa and that they're not constantly going back to the consulates to revalidate visas or, you know, have further restrictions. For example, somebody in China on an H-1B visa still only gets two entries in a 6-month period. So if those things could be renegotiated, it would be very helpful.

Additionally, the consulates are burdened by revalidating visas, which now does require a personal appearance.

We're excited about the prospect of the creation of a private-sector advisory committee to the Department of State and we look for-

ward to working with the State Department on these various initiatives.

Thank you.

[The prepared statement of Ms. Dickson follows:]



Statement of the U.S. Chamber of Commerce

**ON: BALANCING OPENNESS & SECURITY IN CONSULAR
PROCESSING**

TO: HOUSE COMMITTEE ON GOVERNMENT REFORM

BY: ELIZABETH C. DICKSON

DATE: APRIL 4, 2006

The Chamber's mission is to advance human progress through an economic,
political and social system based on individual freedom,
incentive, initiative, opportunity and responsibility.

**Testimony of Elizabeth C. Dickson
Advisor, Immigration Services, Ingersoll-Rand Company
Chair, U.S. Chamber of Commerce Immigration Subcommittee**

**Before the
House Committee on Government Reform
U.S. House of Representatives**

**April 4, 2006
10:00AM**

“Balancing Openness & Security in Consular Processing”

Mr. Chairman and members of the Committee, good morning. Thank you for the opportunity to testify today before the Committee on the subject of balancing openness and security in consular services. I am Elizabeth Dickson, an Immigration Services Manager and a member of the Global Mobility Services Team for Ingersoll Rand Company. I am also Chair of the U.S. Chamber of Commerce Subcommittee on Immigration. I am testifying today on behalf of Ingersoll Rand Company and the U.S. Chamber of Commerce. It is a privilege for me to be here today discussing immigration policy issues as the Senate wrestles with the larger comprehensive immigration reform issues. It is very important to note that an overhaul of our immigration policy to meet our national security and economic needs is so very necessary after a 20-year hiatus.

The U.S. Chamber of Commerce is the world's largest business federation, representing more than three million businesses of every size, sector and region. The Chamber's membership also includes 104 American Chambers of Commerce abroad (“AmChams”) located in 91 countries, which represent American companies and individuals doing business overseas as well as foreign companies with significant business interests in the United States.

Ingersoll Rand Company Limited, a Bermuda corporation, and its affiliated group (“Ingersoll Rand” or “IR”) with worldwide corporate headquarters located in Montvale, NJ, USA, is a global provider of products, services and integrated solutions to industries as diverse as transportation, manufacturing, construction and agriculture. The company brings to bear a 100-year-old heritage of technological innovation to help companies be more productive, efficient and innovative. Its business sectors encompass the global growth markets of Climate Control Technologies, Industrial Technologies, Compact Vehicles Technologies, Construction Technologies, and Security Technologies. Ingersoll Rand features a portfolio of worldwide businesses comprising leading industrial and commercial brands such as Bobcat compact equipment, Club Car golf and utility vehicles, Hussmann stationary refrigeration equipment, Ingersoll Rand industrial and construction equipment, Schlage Locks, and Thermo King transport temperature-control equipment.

Ingersoll Rand operates more than 80 manufacturing facilities, 38 of which are located within the United States, and markets its products and services, along with its subsidiaries, through a broad network of distributors, dealers, and independent sales and service/repair

organizations. Ingersoll-Rand employs approximately 40,000 employees worldwide. Annual net sales of IR products in 2005 were in excess of \$10.5 billion. Since 2000, the company has acquired more than 50 businesses, extending the range of products and services it can provide to customers and enhancing its ability to drive total and recurring revenue growth in international markets.

America's trade relationships and economic goals depend a great deal on the ability of foreign customers (and potential ones) to travel to the United States to visit our manufacturing operations, inspect products and services they are purchasing, and negotiate contracts. Additionally, global companies such as Ingersoll-Rand depend on the ability to bring our own key personnel to the United States from overseas locations to attend meetings, receive training, integrate project work, and interface with U.S. business partners.

As American companies such as Ingersoll Rand search for new opportunities and markets, promising geographic regions include Asia-Pacific and Latin America and Ingersoll Rand's recent acquisitions have substantially expanded our presence in China, India and Europe. In a recent interview, our Chairman predicted that in 5 to 10 years Ingersoll Rand's annual business growth in East Asia should increase by 20 percent as the company's business focus increasingly shifts to the region. For example, Ingersoll Rand has introduced all of its five major businesses and 250 brands to China since it established its first office in Shanghai in 1922. We expect that our sales in China will exceed \$1 billion (US) in the near future.

Likewise, 80 years ago, Ingersoll-Rand India Private Ltd was formed, with headquarters in Calcutta and a branch office in Bombay. Ingersoll-Rand is now the oldest American company doing business in India. Today IR India has several manufacturing operations in India and employs over 900, with a network of 22 company offices and more than 80 distributors offering IR services and products in every region across the country.

We were greatly encouraged by the recent visit of President Bush to India and the surrounding countries. He made it clear that we have significant policy interests in the region, and that we should be doing more to promote the economic interests of both countries through workable immigration and trade policy. The President recognizes that we have a competitiveness issue that can be more broadly addressed through workable immigration policies.

We are also encouraged by the various improvements the Department of State ("State") has implemented in the last few years, and the "Joint Vision: Secure Borders and Open Doors in the Information Age" initiative announced by Secretary of State Rice and Secretary of Homeland Security Chertoff this past January, which we certainly support. In addition, State has reinstated the "pre-screening" partnership with the AmChams, which has worked particularly well in China. In addition, the Security Advisory Opinion ("SAO") process has improved, online visa interview appointments have made it easier for people to schedule interviews, and the State Department's posting of visa interview wait times on the web site has been very helpful. There has been measurable progress, but there are many improvements that still need to be made.

We continue to experience challenges at the consulates to obtain visas for our employees

and valued customers to visit the United States. Currently, the wait for visa appointments in many countries has increased significantly and does not meet pressing business needs. Despite the Department of State's efforts to improve the process, many problems still exist in India, China, Mexico and Brazil, with the consulate in Chennai, India the most problematic. In India, Chennai is posting wait times of 163 days, Mumbai at 162 days, and New Delhi at 98 days. Mexico is posting 100 days in Ciudad Juarez, 84 days in Monterrey, and 73 days in Mexico City. Rio de Janeiro, Brazil has a 92-day wait and Sao Paulo lists 49 days. Due to France's inability to meet the biometric passport deadline under the Visa Waiver Program, Paris is currently listing a wait of 116 days to obtain a visa appointment. But there have been some improvements in visa wait times at certain consular posts as well. In Caracas, Venezuela, the wait time has gone from well over 100 days in 2005, to only around 20 days, and in Bangkok, China, the wait has gone from over 60 days to only around a week.

In addition to the delays in getting an interview, processing times to actually obtain a visa after being approved is almost a month in some countries. In particular, processing time in Mexico is usually long—it currently takes 30 days in Monterrey and Mexico City and 28 days in Meridia to receive a visa after the interview takes place. This means that people in Mexico usually have to wait at least four months to be able to come to the United States.

These delays impact Ingersoll Rand's business objectives most severely in India and China, and has caused China/India managers and professional employees to miss critical business meetings and training sessions scheduled in the United States. It is important to remember that all Ingersoll Rand sector headquarters and the corporate executive offices are located in the United States as well as Ingersoll-Rand University, our global training center, which is located in Davidson, NC. So there is an urgent need for foreign nationals to visit the United States to conduct business with our company.

Under the new procedures implemented at the consulates, in addition to the long wait for visa appointments, passports with visas are no longer returned to applicants on the day of the interview but returned by mail usually within three to five business days. Upon return, employees and customers have frequently discovered errors in visas that need to be corrected before they can depart for the United States.

At the Chennai consulate in India, we have experienced the greatest number of errors in conjunction with the company's J-1 Exchange Visitor Program. Such errors include incorrect application of the 2-year home country rule for J-1 trainees in occupations not on the skills list, DS-2019 forms returned without consular signature and endorsement, or the wrong classification or expiration date on the visa issued.

Our trainees travel eight hours each way from the Ingersoll Rand Bangalore facilities to Chennai for the visa interview and in many cases, we must schedule another visa appointment for them to return to Chennai and back to correct the error prior to departure for the U.S. This is costly to the company in time, productivity, and often legal costs are incurred. In the first half of 2005 IR spent \$19,000 on legal fees to correct consular errors and advance appointments to meet critical business needs for IR India employees alone. Things seemed to improve briefly until the end of the summer when errors increased again and in 2005, Ingersoll Rand spent a total of

\$41,248 resolving consular issues in India. Each of these situations required a second or third interaction with the consulate to correct.

Two weeks ago, on March 20, 2006, we had another incorrect application of 212(E) at the Consulate in Chennai – so the cycle begins again - possibly due to changes in personnel at the consulate who are not properly trained. Ingersoll Rand has had a J-1 Exchange Visitor Program for over 20 years and all trainees have returned to their home country or region upon completion of their training assignments – in fact, it is a requirement for participation in the program. Incorrect visa restrictions can affect the employee's future travel to the United States and can severely impact product design projects where concurrent design work and manufacturing processes need to be coordinated with overseas Ingersoll Rand locations.

We feel there are not enough visa officers to handle the workload in India, training of consular officers is inadequate, there is no "hand off" of visa processing knowledge when personnel are replaced, consular officers frequently refuse to read the company letters provided that fully explain the "business necessity" for travel, and base their decision on a brief 30-second interview.

Inconsistent processing and frequent abuse of 214(B) for "immigrant intent" leaves companies at a loss to understand the visa process and what they can do to ensure visa issuance. I recently sent five J-1 applicants to the Chennai Consulate with identical employment with IR India, similar credentials, and basically the same company letter that contained detailed weekly/monthly training plans. One visa was initially denied and approved on re-application with the same documentation, two were incorrectly issued 212(E) two-year home country rule, and one DS-2019 was not properly endorsed by the consular officer. American companies have the right to expect some transparency in visa issuance and a predictable processing timeline.

The Bureau of Consular Affairs has encouraged business to provide additional evidence to assist consular officers to determine an applicant's eligibility for the visa classification, including applications for B-1 business visas. As a company, we have adopted an internal process to assist our foreign employees and customers through the application process by trying to address in company letters the bona fide business reason for travel, how the applicant meets the criteria for business visitor as outlined in the Foreign Affairs Manual, and what factors demonstrate their strong ties to their home country. We have developed questionnaires for this purpose and these additional letters of support are prepared by corporate Immigration Services. In many cases this has facilitated visa issuance, however, consular officers have frequently refused to read the letters and processing is still very inconsistent.

For example, Construction Technologies, which manufactures road development equipment, is one of our most established businesses in China. The Ingersoll Rand subsidiary in Wuxi, China was trying to sponsor a targeted business delegation to visit the Road Development headquarters and manufacturing operations in Shippensburg, PA and an IR Equipment Store in Philadelphia for an October business trip to the U.S. that would also include a visit to Washington, DC and New York City as tourists. The trip was limited to two (2) weeks in duration and all customers invited represented substantial future sales for the company. Five applied in Beijing and were initially denied and approved at second appointments in November,

two were denied in Shenyang, and two were approved in Shanghai.

This delegation was composed of key managers at Chinese companies that have the authority to purchase equipment and a visit to the U.S. operations would expose them to our full product lines. All had long employment and key positions with the companies they represent and were married, with their family members remaining in China during this brief visit to the U.S. This was clearly stated in company letters of support. It is an embarrassment for the company and has a negative impact on future sales when visas are denied despite the invitation and support of a major U.S. company.

Face-to-face business meetings in the United States are an essential part of American companies' ability to function and compete in a global economy. Within 5 to 10 years, China is expected to invest \$20 billion in expressway equipment purchases. Ingersoll Rand has now established distribution sites in Shanghai, Wuxi, in East China's Jiangsu Province, and in Chengdu, in Southwest China's Sichuan Province, to meet projected growth but it is important that these customers can visit our U.S. manufacturing operations to develop ongoing trade partnerships.

The approaching 2008 Beijing Olympics are a huge opportunity for American businesses to sell merchandise in China. Ingersoll Rand recently met with officials from the Beijing Olympic Committee to negotiate the purchase of Ingersoll Rand Club Car vehicles for use in the Olympic village. As the Chair of the U.S. Chamber of Commerce Immigration Subcommittee, I am frequently contacted regarding other member companies' inability to obtain visas for Chinese customers to visit U.S. manufacturing operations, including manufacturers of power generation equipment, gasoline engines, and custom power supplies who are also trying to negotiate contracts for these Beijing Olympics.

Ingersoll Rand is not the only company to face difficulties at the consular offices. Another Chamber member, a leading U.S.-based industrial automation company with customers in more than 80 countries, had three sales engineers from China who were subjected to the Mantis screenings. While not a significant number in and of themselves, these three happened to be critical personnel to their operations. One of the engineers was working on industrial machinery for a mass transportation project in a major Chinese city. The company believes because the Embassy decided this fell under the "Urban Planning" technology field, and the case was sent for a Security Advisory Opinion ("SAO"). Because the engineer could not attend necessary training in the U.S., the project was set back a full year.

Two other employees at another U.S. firm, a software sales engineer and the head of the company's automation research and development center were also delayed. The employer was not able to determine which "critical fields" necessitated the SAO's in these cases, and therefore was not able to provide any additional explanation or help to the consular officer in determining whether or not an SAO might have even been required, much less help the agencies involved determine whether or not to grant the clearance.

Over the past 24 months, as a member of various business delegations, I, and representatives of the U.S. Chamber, have met with the Departments of State and Homeland

Security ("DHS") several times on the subject of the importance of business visitors to the United States. I do appreciate the fact that these agencies have engaged in a dialogue with business to understand the numerous issues, consular procedures, and directives that impact American business activities. In return, the business community has offered up a number of suggestions and process improvements we feel could support business objectives without compromising security initiatives and thereby facilitate business travel to the United States in support of international commerce. Overall, while significant improvements have been made, much more needs to be done.

The U.S. Chamber of Commerce has had an open dialogue with the Department of State and looks forward to the possibility of continuing to work with the agency through the new business advisory panel announced by Secretaries Rice and Chertoff in January of this year as part of the "Joint Vision" mentioned previously, as well as through existing liaison efforts with both agencies. Even as we welcomed the progress embodied in the Joint Vision statement, the U.S. Chamber has conveyed the view to both departments that there remains a number of aspects of visa policy that require further improvements to ensure that the visa application, interview and review processes are not burdensome to American business and our economy going forward. These include the creation of a "trusted traveler" program, technology alert list ("TAL") reform, benchmarking, visa revalidation changes, as well as the full and timely implementation of current and planned commitments, as articulated in the Rice-Chertoff Joint Initiative. Some of our other recommendations include (see enclosed formal list of issues presented to the Department of State):

- ◆ Establishing special business facilitation programs at each of the 211 visa processing posts around the world, which includes priority visa processing option.
- ◆ Expanding training for consular officers on the importance of international business and the proper application of visa law.
- ◆ Finding ways to reduce consular delays soon, such as additional staff, opening more windows, working shifts to address demand over the course of a longer work day, and adding or shifting staff for "peak" volume periods would be much appreciated. Remember that the travel distances in these countries are significant, and efforts to re-visit the Consulate in order to correct problems/errors or follow-up on visa issuance often result in major difficulties and expense on the part of the traveler.
- ◆ As part of the Security Advisory Opinion (SAO) review process, the TAL (technology alert list) should be narrowed and at least annually reviewed by the Technology Advisory Committees of the Department of Commerce.
- ◆ Establishing benchmarks should be encouraged, with a wait time of no longer than 30 days targeted at those consulates which are now in excess of that time period. It should be noted that the delays are typically at the front end in terms of getting the interview date, although in some cases the wait occurs after the interview in waiting to have one's visa processed. The entire process should be benchmarked at 30 days or less with predictability a hallmark. Obviously the shorter, the better.
- ◆ Improving data sharing between DHS, State, and other agencies such as the Social Security Administration (SSA). Since the creation of DHS a goal of coordinated information sharing has been key. In the visa issuance context, State and DHS need to be more diligent in sharing information relating to non-immigrant visa and immigrant visa

approvals. For example, when DHS approves non-immigrant visas, State still demands a hard-copy of the visa approval notice from DHS and will not rely on the electronic confirmation from the DHS database. Likewise, when State issues visas such as E or blanket L visa, information transfer from State to DHS and SSA often takes 3 plus months. With respect to immigrant visa issuance, State is still requiring hard-copy approvals from DHS to begin visa processing for principal and dependents. These antiquated procedures are burdensome to State as well as to the business community.

- ◆ Considering the issue of reciprocity, as the U.S. is not tied so closely into what other countries do. State's use of outdated visa reciprocity schedules governing the issuance of employment authorized non-immigrant visas and business visitor visas should be re-evaluated. We believe that in the interest of improving service to the business community, as well as reducing backlogs and the additional burdens imposed upon the Department of State in re-adjudicating visa applications, that applicants for employment authorized visas should receive multiple entry visas for the duration of the DHS Approval. In addition, business visitor visa applicants should be considered for multiple entry visas for a minimum of 5 years. At a minimum, the reciprocity schedules should be re-negotiated to reflect the needs of the U.S. government and business.
- ◆ Revalidating visas without leaving the country within a reasonably short period of time is a very important issue. Suspension of the Visa Office has placed the burden on Consulates in Canada and Mexico where Third-Country Nationals travel to revalidate visas.

While we recognize that the Departments of State and Homeland Security have made many improvements and have entered into an expanded dialogue with the business community on these issues, much remains to be done. We are excited about the prospect of the creation of a private sector advisory committee and seeing real progress on the various initiatives announced by State and DHS, and we look forward to working with Congress as well as both Departments in the future. Thank you for your time.

U.S. Chamber of Commerce



Visa Processing Recommendations

General Recommendations:

Outreach:

- We recommend the creation of an advisory committee of private sector stakeholders to advise the Departments of Homeland Security and State on the issues facing the business community and develop cooperative solutions to ensuring both security and continued legitimate travel to the United States.
- The Departments of Homeland Security and State need an aggressive and proactive outreach and communications campaign (perhaps working with the Department of Commerce) to counteract the increasingly negative image the United States is gaining among international business and travelers.
- When appropriate, changes should be phased in gradually by country and security risk, rather than all at once.
- Create a single, easily accessible and multi-lingual Internet portal for comprehensive information on travel to the United States, including requirements for visa appointments, application, documentary burden of proof and what to expect upon arrival (visa inspection process). There is currently no easy way for a potential visitor to easily view a "timeline" or "process chart" for how to travel to the United States. For example, at what point is it necessary/prudent to make airline reservations? Some categories of visa might require a round-trip plane ticket, but travelers may be unwilling to purchase a ticket if there is a high possibility of visa denial or if it is uncertain when a visa might be issued. This information could be disseminated in cooperation with local entities including American Chambers of Commerce abroad and local Visit USA committees.
- Reinstatement of the Transit Without Visa ("TWOV") and International-to-International ("ITI") programs as soon as possible, consistent with national security concerns. These two programs were important connections for travelers from Latin America and Asia to the rest of the world, and generated significant income for airlines and airports operating in Miami, Los Angeles, Houston and other cities. The suspensions of these programs, which disproportionately affect Latin America and Asia (the top five transiting nationalities are Brazil, Mexico, Korea, the Philippines and Peru), are perceived as additional evidence abroad that America is "treating all nationalities as terrorists."

Resources:

- Increase funding and authorization for consular positions dedicated to visa processing, focusing on the posts that have seen the greatest increase in workload (both as a percentage and as an absolute number of cases/time to process). Authorize overtime for visa processing to meet increase in workload.
- The Departments of Homeland Security and State should develop criteria to evaluate priority classes of visa cases at consulates, such as by seasonal periods of high demand, or urgency or emergency travel needs to alleviate backlogs, and utilize resources efficiently.
- Reinstate facilitation programs by third-parties such as those previously offered through American Chambers of Commerce, or "AmChams," to qualified members in cooperation with U.S. consular posts. These programs, which were open to pre-screened members, could be redesigned by the consulate and the organization with specific criteria as to the types of companies and/or applications amenable to this facilitation. Consulates could develop a standardized AmCham and company validated information form (electronic or paper or both) which would support and expedite the visa application and renewal process. Because of the screening by the AmChams (which would not involve adjudication, but case preparation) and the qualification of the companies, the consulates could have better assurance of the bona fides of the sponsor and the applicant, and more confidence that the application will be complete and free of errors. This would allow for better allocation of scarce consular resources. Similarly, as simple a mechanism as regular meetings between top consular officers and AmCham executives and staffs would be helpful in communicating issues and policies.
- Revising visa reciprocity agreements between the United States and key sending countries to extend the duration of visas each country grants citizens of the other would reduce the number of times that visitors must renew their visas.

Specific Recommendations for Consular Processing:*Interviews:*

- Reassess the policy of blanket, in-person interviews. There should be a security assessment of the validity of these interviews—as they are currently conducted—as a screening tool. It is unclear whether the resources required to conduct these interviews (which, due to high volume, are rarely more than a few minutes), is justified by significantly increased security. As recommended by the Department of State inspector general, a risk-based evaluation of the interview requirement should be conducted.
- Encourage pre-filing and screening of visa applications prior to the interview, with an opportunity to request and provide additional evidence or information prior to or at the interview. Consider an electronic filing system for applicants to submit visa applications online, similar to Australia's electronic travel authorization (ETA). Low-risk cases could be processed electronically and random and high-risk cases referred to consulates for interviews.

- Allow online visa appointment systems at consulates and embassies and allow appointments to be made while an individual is still in the United States prior to travel.
- Create a program for frequent, low-risk travelers that have proven track records, such as employees of well-vetted international companies that would reduce the need for in-person filing or additional security checks.

Process Streamlining:

- Inefficient visa-renewal processes cause lengthy delays and unpredictability for travelers. The Departments of Homeland Security and State should establish a timely process by which individuals can revalidate their visas, or at least begin the visa renewal process, before they leave the United States for business or personal travel. This would allow individuals to make reasonable assessments of their travel itineraries, in particular executives and others who travel frequently on short timetables. In most cases, because these individuals have previously been granted visas in the same category, and/or have had petitions already approved by the Department of Homeland Security, renewals should be processed expeditiously, as low-risk cases.
- There is a lack of transparency and priority-processing in the visa system. The Departments of Homeland Security and State should create processing time goals for all case types. We would suggest that most initial nonimmigrant visa applications should be able to be decided within two weeks, unless additional security checks are necessary, in which case 30 days should be the goal. Creating a mechanism by which visa applicants and their sponsors may inquire about the status of pending visa applications, and a process by which applications pending for more than these goals are given priority processing would be extremely helpful.
- The Departments of Homeland Security and State should consider the collection of biometrics at remote locations to reduce the need for personal appearance at the embassies or consulates of low-risk applicants. The Departments of Homeland Security and State should not require new biometric collection for reissuance or revalidation of previously issued visas.
- Implement a fee-collection system for the Student and Exchange Visitor Information System ("SEVIS") that allows for a variety of simple fee payment methods that are quick, safe, and secure, including payment after the individual arrives in the United States.

Security Checks:

- The Departments of Homeland Security and State should clarify and issue specific guidance to consular officers regarding which types of cases should be referred for Security Advisory Opinions. Specifically, there should be detailed training regarding the interpretation of the Technology Alert List, and requests for additional information from a sponsor or applicant to help identify whether the proposed activity is encompassed by the Technology Alert List.
- Allow businesses to assist consular officers in their duties by notifying companies, when appropriate, of the need for additional security checks and requesting specific additional

information, such as clarification of duties, scope of business or other information, that could either obviate the need for a clearance or assist in rapid processing of the clearances.

- Have a standard time frame to conduct security checks and visa issuance, with a system that requires status updates every two weeks as a “tickler” for aging cases.
- To decrease repetitive security checks that cause lengthy visa issuance delays, extend the validity of Visas Mantis security clearances from the current one-year time period to the duration of their underlying petition (for H, L, O or P nonimmigrants) or the duration of their studies (for F and J nonimmigrants) or their visit (for B1/B2 nonimmigrants).
- Individuals flagged for additional inspection or security clearances who are subsequently cleared, should have specific, rapid mechanisms for ensuring they are not repeated. There is currently no standard means by which false “hits” can be noted in any systems to prevent the same person from undergoing checks during each and every visit to the U.S. In addition to improving the service to the traveler, such strategies will reduce the amount of resources wasted on performing redundant checks on legitimate travelers.
- Previous security clearances, including export licenses, should be considered in conducting security checks, and when conducting checks for subsequent visa applications, when the underlying activities or sponsors have not changed.

Chairman TOM DAVIS. Well, thank you all very much.

I guess one of the issues that arise is our economy is very globalized today. We have, you know, an old saying, globalization is like a steamroller; you either get on board or you are destined to become part of the pavement. We see that on the technology side. I see that out in my district all the time, where we have just a—it is a technology hub, and I hear complaints about getting key people in and out. But today, for the first time, we really understand that music and travel, I think Forrest Gump would say it is like peas and carrots. I mean, they just go together. And the fact that is not only expensive, but that it is taking—where people are missing performances and the like, and a lot of solo artists can't afford to miss a performance. So that adds another dimension, I think, and a sense of urgency to the kind of things that we are trying to do.

Let me ask a couple of questions. First of all, let me start, Mr. Ma and Ms. Gibson, with you.

Mr. Ma, in your testimony, you talk about the challenges some of the Silk Road artists have faced in obtaining visas. What is that financial burden on that individual in dealing with the visa problem? Does it pose a financial burden as well?

Mr. MA. I believe so. I think, obviously, some of the burden is borne by the Silk Road Project, which is a nonprofit, but I think the musicians that are coming are so eager to do their work, are so passionate, that I think they will incur costs to themselves that they will never even talk to us about. And so I can't give you exact figures, but for the income that they're getting in other countries, I would say that it's actually a substantial amount of money for them.

Chairman TOM DAVIS. I mean, you heard Ms. Dickson testify, and you understand that, you know, if you are Ingersoll-Rand or you are a Microsoft or you are trying to get people, the State Department understands that urgency of getting people into the country if you are from a technology company. And there are still problems even there where we have identified it. But for you, compared to what many would consider to be the more traditional businesses like the Microsofts or Ingersoll-Rand, do you think that artists in general receive about the same, more consideration, or less consideration when applying for a visa?

Mr. MA. I think that depends on which countries that they're coming from. And I don't—I'm not an expert on your part of the equation. But I would say that, as I was listening to all of you testify, I would say that it's about the same.

Ms. GIBSON. Echo the comments.

Mr. MA. Yeah. We could be giving the same speech over and over and over again.

Ms. GIBSON. Absolutely.

Mr. MA. And I think that's the same creativity issues, innovation, that if we don't have those contacts, the people-to-people contacts, I think we really suffer on the innovation front.

Chairman TOM DAVIS. Well, let me zero in this way. You travel all over the globe. Ms. Gibson, your artists travel all over the globe. And you see the practices of a lot of other different countries. In your opinion, are foreign travelers choosing to visit other countries

for business or pleasure instead of coming here because of our security requirements? And how do we stack up against other countries?

Ms. GIBSON. Well, I'll take that as a first response. That's absolutely the case. I travel myself regularly on behalf of the association and the industry and at markets that are business markets and arts markets all the time. And we are finding out increasingly that artists, who would normally come from abroad to the United States, are deciding not to come to the United States. They don't look to the United States as an open marketplace any longer. The visa process is very onerous for them. In parts of the world networks are developing that don't look to our culture as a standard bearer or marker for the entire cultural and entertainment community. So this is definitely happening.

And we have heard about a couple of countries discussing reciprocity legislation that would, in some ways, restrict the movement of U.S. artists abroad for the same kinds of activities—which we certainly don't want to see.

Chairman TOM DAVIS. OK. I am here so I can keep going with questions. I have a ton of questions.

Mr. Slater, how important are the trade shows that you put together to the bottom line of the businesses that participate? And are most of the participants small businesses or large businesses?

Mr. SLATER. The trade show industry, at least in the equipment manufacturing industry, the United States has a very strong position worldwide. You made a good point about large versus small. The huge companies, the Caterpillars, Ingersoll-Rands, they have the wherewithal to compete globally. But the medium, small companies, which make up probably 80 percent of our membership, the trade shows are their biggest marketing opportunity every year. And if they can't bring customers to that, they will not compete.

Chairman TOM DAVIS. You also, in your testimony, you talk about a letter from the head of an Indian delegation to one of your trade shows, which said, "the U.S. embassy does not want to promote business between the two countries." Have you been able to respond to that businessman and offer him any hope that things will be different at your next trade show?

Mr. SLATER. Oh, yes, I think they understood that we came to bat for them and so did the Department of Commerce. We hope they'll come back again. But at the same time, as you work with 100 people in a delegation, you just don't know how many just don't show up next time. I think that's our biggest concern. The leader of the delegation we can address, but it's the 20, 30 people that won't even, you know, come to the table or come with us next time.

Chairman TOM DAVIS. Mr. Schofield, you represent one of the largest companies in the world. Certainly the brand name, Microsoft, is ubiquitous. You quite correctly note in your testimony that a 160-day wait for a visa interview, just for the interview, is just totally unacceptable in today's business environment. To what extent can Microsoft leverage IT to mitigate this and reduce the need for in-person interaction with foreign employees? Any thoughts on the technology to be able to do that?

I mean, a lot of the work today is not being done in offices anymore or face-to-face, particularly on repeats. You get someone that has had a visa and maybe it is expired. Any thoughts on that?

Mr. SLATER. I think that there are a lot of opportunities there. You know, one of the frustrations for us, and I mentioned in my testimony, the unpredictability of this process. And we understand that there certainly needs to be time for the State Department to do background checks between the time an application is filed and the time an interview happens. There's no transparency to us on the outside about what actually happens there. And for national security reasons, I certainly understand why there certainly will never be complete transparency. That makes perfect sense to me as an American citizen that there are good security reasons for that.

So it's hard for me to tell you, sort of, without knowing the exact details of how that process works, how much IT could help there. There's clearly opportunities for IT to help there, particularly since the consular offices are spread around the globe. There's opportunities for IT to provide better communications, to streamline those communications, to move information to the places where it needs to be faster.

If I can actually come back to the question you asked Mr. Slater about the importance of trade shows. I would just want to add from my point of view, working with the larger computing industry and the research community worldwide, trade shows and conferences are super important for us and they're important for the academic research community as well. Literally in the United States there are hundreds of research and industry conferences put on every year and they attract the best and brightest of those people to the United States to participate in those conversations and help to advance the state-of-the-art. They're absolutely the central part of the innovation process in my industry as well.

So beyond just sort of the trade show part, there's a larger set of conferences that it's super important for us to make sure that we keep healthy and that we can attract the right people from around the world to them.

Chairman TOM DAVIS. Well, let me also ask about the visa denials, because we know it's a long queue. Mr. Schofield, you talked about the unpredictability, and I took that two ways. One, unpredictability because you don't know how long it is going to take just for your interview. You never know. You build in 30 days or 40 days and it may take twice that. But also, unpredictability as to the result. Do you find that the results are random? And I don't know if anybody has had the experience with just why was somebody denied here or there. Our office gets it because I have a lot of foreign-born people in my district. And you always have relatives trying to come over for graduations, weddings, funerals, those kind of things. You know, with a funeral, you don't get 60 days, you don't get 120 days. You need to come right in. And it has been almost embarrassing sometimes dealing with our embassies trying to move people ahead and get that sense of urgency, and then sometimes the denials that come forward.

Now, on the other hand, you have to recognize that if one wrong person gets in here and does something evil, that they are going

to go back and everybody is going to be questioned who was in the queue. So we understand the need to balance all of that. We have been pretty successful the last 3½ years.

Have you seen the random nature of visa denials, any of you? Does anyone want to comment on that?

Mr. SCHOFIELD. I have seen exactly that. I can give you an example. Every March we have a large internal trade show where we roll out all of our best research prototypes to share with the rest of the company. It is the single biggest event that our research organization does every year. We pick the technology prototypes in November so that we have 4 months to get visa applications in and processed for all the people we are bringing from our labs in Cambridge, England, from China, from India. And 3 months later we find out that some number of them have been denied for unspecified reasons. And we can never predict which of them it will be. This is a huge frustration. It is a huge problem for us because then we end up scrambling at the last minute to try to find somebody else who could actually give that demonstration and represent it to the rest of our company.

Chairman TOM DAVIS. And let me ask our artists, are you experiencing the same problems?

Ms. GIBSON. It's the same. It's the same with ensembles coming in. We even had a case—

Chairman TOM DAVIS. You have a string quartet and three members show up?

Ms. GIBSON. This happened to Lincoln Center a couple of years ago. They had an entire performance group coming from Iran, for Tazieh, and a half-dozen of the performers couldn't come through at the last minute. It has happened with Mexico.

We had a case with our own—we produce the largest international performing arts marketplace and trade show in New York. And a year ago, we had a young woman with her delegation from China. And we actually wrote to our embassy in Shanghai to find out what had happened. They wouldn't tell her, but they did tell us, that she wasn't convincing enough in her interview that she would return to her country.

And we learned that the Kennedy Center, with their China Festival this year, they had a number of visas that came through, hundreds, but two denials were for two young unmarried women who, in their interviews, could not convince the interviewer that they would return home.

Now, we've taken the opportunity to ask in a couple of cases, but the artists can never find that out. And it is random, seemingly.

Mr. MA. I have one example of a composer from Kyrgyzstan who actually has performed at the Washington Mall during the Folklife Festival. He was commissioned by Carnegie Hall to write a composition. And of course he couldn't—at the last moment, his visa was denied. And since he's also a performer, the composition, obviously, suffered greatly and, I think, as his reputation has also suffered, because if you—you know, you have a chance to do something and you don't come through—it's not his fault—but that also affects him very much.

And there are other examples, where I think we would be performing at Millennium Park in Chicago, but because we know—

this is in June—we know the visa process from Mongolia takes so long, we could not even consider inviting one person who would be absolutely crucial for that event.

Chairman TOM DAVIS. As you talk to artists around the world, is there anything—I mean, is there one thing about the U.S. visa system that is most disturbing to them? I mean, can you—

Mr. MA. Well, I think dignity is a huge issue that I think we're all talking about. I know there are rules and they're many and you're in the process of thinking through them, and the costs. But I think, for so many people who are here to actually generously share their traditions and their knowledge and their thinking, to them to be thwarted in a less—

Chairman TOM DAVIS. We ought to be rolling out the red carpet for these people.

Mr. MA. Well, the thing is that, you know, the lines that people go through and the security checks that, I think, for the frequent visitors are such that in fact many of our friends—they still come, but I think there are certainly many people that decide that they don't want to. They would prefer not to.

Chairman TOM DAVIS. I have a couple of other questions. Mr. Slater, you had to go to the Department of Commerce a couple of times. Does that move you up the queue? How effective is that, when they get involved?

Mr. SLATER. Well, it's been effective. The problem is with a small staff—we only have 50 people in our office—it's very difficult for us to keep an eye on all the countries we're trying to promote in. We've been very successful in China, but not as successful when we get to India. I guess we've been in the International Buyer Program now for our trade shows for 20 years, and that does help.

Chairman TOM DAVIS. Ms. Dickson, you testified that visa delays impact Ingersoll's business most severely in India and China, the two fastest growing countries in the world.

Ms. DICKSON. It's where our business is, it's been identified as target markets for us.

Chairman TOM DAVIS. Could this prompt Ingersoll to begin locating such events outside the United States in an effort to bypass the visa problem?

Ms. DICKSON. Well, I think it's very important for everybody to understand that most of our manufacturing is here in the United States right now. Half of our manufacturing plants are here. However, we are a global company and we do have manufacturing operations around the world. If we want to keep jobs in America and manufacturing in America and export those products around the world, we have to allow our customers easy access to come in and visit our plants and actually be able to see our product. If not, they could be manufactured other places. That's not our intent at this time. Our intent is to enable our businesses to come to America. All our sector headquarters are in America and we like that easy access for our customers.

Chairman TOM DAVIS. In your testimony, you talked about the challenges Ingersoll trainees in the J-1 Exchange Visitor Program face in traveling from Bangalore to the consulate in Chennai.

Ms. DICKSON. That's correct. It's a 9-hour trip. And our exchange program is a training program. And just as they were saying about

people who are young and unmarried, lots of times those are our new hires, who are fairly young, may not be married, may not own a home, may not be able to really establish those strong ties to their home country for the consular officer. However, the Ingersoll-Rand program has been up and operating for 20 years. In 20 years time, we have never had one person come to the United States and not return to their home country or region. It is a condition for being part of the program.

Chairman TOM DAVIS. The President recently announced the location of a new consulate in Hyderabad. What impact will this have on Ingersoll-Rand, and do you support the decision to put it in Hyderabad versus Bangalore?

Ms. DICKSON. I wanted Bangalore.

Chairman TOM DAVIS. How about you, Mr. Schofield? You have more business in Bangalore, don't you?

Mr. SCHOFIELD. We have facilities in both Bangalore and Hyderabad. We actually have a larger facility in Hyderabad.

Chairman TOM DAVIS. OK. You probably need them both places.

Mr. SCHOFIELD. We need it in both places. We're happy to see this move by the State Department. And we hope that, as part of this, they seriously address the staffing issues in the consular offices.

Chairman TOM DAVIS. Thank you.

Ms. DICKSON. And there may be some other options as well. I know they're starting this pilot program, that they're going to videotape and try to do the consular interviews in that manner. I was at a recent conference and they suggested that actually requires more personnel because they're setting up two different offices.

However, if you could somehow set up smaller offices around and do something like that, be able to take the biometrics and do the interview that way, or go to some sort of a pre-submission of the documents and be able to, before the person comes in to the interview, have a review of those documents so that when they actually get there, it's the last step.

Chairman TOM DAVIS. You know, you will probably always have some unpredictability to this process. You will probably get some random—you get that in everything. But a 160 day wait, inexcusable.

Ms. DICKSON. Ridiculous.

Chairman TOM DAVIS. Ninety days is inexcusable. Particularly in a global economy, where things are moving at warp speed and the competition doesn't put up the same restraints. So finding that balance is important. But hearing these stories, I think, helps us as we formulate our next activity up here, and I want to thank this panel for adding a lot to this hearing today.

Thank you very much.

The hearing is adjourned.

[Whereupon, at 12:50 p.m., the committee was adjourned.]

[Additional information submitted for the hearing record follows:]



**Testimony in Support of Improved
Visa Processing for Foreign Guest Artists
Submitted to the
House Government Reform Committee**

**Henry Fogel
President and CEO
American Symphony Orchestra League
April 4, 2006**

On behalf of America's orchestras, the American Symphony Orchestra League is pleased to offer this testimony for the record to the House Government Reform Committee regarding the impact of visa processing delays.

The American Symphony Orchestra League is the not-for-profit service organization for the field of symphony orchestras. Founded in 1942, the League's membership includes orchestras in the United States, as well as individuals, artist agencies, affiliated organizations, libraries, volunteer guilds, and orchestra associations. Supported by a network of musicians, volunteers, administrators and community leaders, America's adult, youth, and college orchestras total more than 1,800 and exist in every state and territory, in cities and rural areas alike. They engage more than 150,000 instrumentalists, employ (with and without pay) more than 8,000 administrative staff, and attract more than 475,000 volunteers and trustees. In the course of a season, orchestras perform nearly 36,000 concerts to total audiences nearing 28 million.

Orchestras from all regions of the country and of all budget sizes present international musicians to U.S. audiences. By inviting foreign musicians to perform, orchestras provide American audiences the opportunity to experience a diversity of musical talent and encourage a supportive climate for U.S. orchestras to perform abroad. Before a foreign guest artist or performing group may perform with an orchestra in the United States, a U.S.-based organization (usually the orchestra or an artist manager) must petition U.S. Citizenship and Immigration Services (USCIS) for approval of an "O" visa, in the case of individuals, or a "P" visa, in the case of performing groups, culturally unique performers, and reciprocal exchange programs. After the visa classification is approved, an artist or performing group must then visit a U.S. consulate to collect the visa before departing for the United States.

New York Headquarters
33 West 60th Street, 5th Floor
New York, NY 10023-7905
Tel: 212-262-5161 / Fax: 212-262-5198

Washington Office
910 Seventeenth Street, NW, Suite 800
Washington, DC 20006
Tel: 202-776-0215 / Fax: 202-776-0224

*American Symphony Orchestra League
April 4, 2006*

Orchestras must rely on both steps of the U.S. visa process to be affordable, reliable, and efficient. Our testimony will encompass both USCIS petition policies and Department of State consular practices.

Orchestras are Committed to Facilitating Cultural Exchange

International cultural exchange promotes mutual understanding and fosters goodwill among the citizens of the United States and around the world. Cultural exchange initiates and maintains critical dialogue with people of different countries, cultures, and faiths – building relationships that continue long after a performance has concluded.

U.S. orchestras of all sizes, including youth orchestras, participate in international cultural exchange by performing abroad, bringing live American culture to audiences in countries around the world. Likewise, orchestras invite international performers to the United States to perform for and interact with audiences and musicians in communities large and small across the country. Orchestras engage international artists as solo and featured performers, as well as by inviting participation in activities such as master classes, lecture-demonstrations, and workshops for professional staff and musicians. Through international performances and community engagement activities, orchestras provide artistically rich performances, improve cross-cultural understanding, and encourage respect for cultural diversity.

In a coordinated effort with other national performing arts organizations, the League is communicating directly with USCIS, Department of State, and Department of Homeland Security to improve the immigration procedures for foreign guest artists. Since June of 2001, the League has met with the top officials at all three agencies to address our urgent requests for reform.

The League is also dedicated to informing U.S. orchestras about compliance with USCIS regulations and Department of Homeland Security consular processing requirements, particularly as they pertain to the engagement of foreign guest artists through the O and P visa categories. In addition to providing technical training sessions at our national conferences and one-to-one assistance for orchestra personnel, the League co-hosts with the Association of Performing Arts Presenters an online publication guiding nonprofit arts organizations to comply with petitioning requirements, *Artists from Abroad: The Complete Guide to Immigration and Tax Requirements for Foreign Guest Artists*, www.artistsfromabroad.org. As we seek improvements to U.S. visa policies, we are equally dedicated to ensuring that orchestras do their part to complete the petition and consular requirements in a timely and thorough manner.

At a time when international cultural exchange is of great value to orchestras and the international interests of the United States, nonprofit arts organizations continue to confront delays and uncertainties getting approval for visa petitions for foreign guest artists. These delays not only impact the immediate availability of musicians to perform alongside American orchestras, but also threaten to impede the ability of U.S. orchestras to perform abroad.

USCIS Processing Delays Persist

Delays at USCIS are making it increasingly difficult for international artists to appear in the United States. Nonprofit arts organizations confront long waits and uncertainty in gaining approval for visa petitions for foreign guest artists. These delays began in June of 2001 (prior to September 11th), when USCIS adopted the Premium Processing Service, guaranteeing processing within 15 calendar days at an unaffordable cost for most nonprofit arts organizations – \$1,000 per petition.

Prior to creation of the Premium Processing Service, regular O and P visa processing took an average of 45 days. For those unable to pay the \$1,000 Premium Processing fee, regular processing times have varied between 45 days to six months. While USCIS has undertaken efforts to speed up processing, the timing remains unpredictable. Petitioners submitting petitions through the regular process today receive a receipt from USCIS stating, “It is taking between 90 to 150 days for us to process this kind of case.” This degree of uncertainty can prove too risky for many performing arts organizations, and is having a direct impact on their ability to present foreign guest artists. Orchestras must sell tickets in advance, creating a financial obligation to their audiences. Performances are date, time, and location-specific, and the nature of scheduling, booking, and confirming highly sought-after guest soloists and performing groups requires that the timing of the visa process be efficient and reliable.

Reduce the USCIS regular processing times, provide updated and accurate forms and instructions, and implement uniform policies and training at USCIS service centers. Most nonprofit arts organizations cannot afford the Premium Processing Service and must rely on the uncertainty of regular processing - or the prospect of not scheduling a foreign artist at all. USCIS must reduce the regular processing times to a reliable 45-day period.

Congress can address this by requiring USCIS to treat as a Premium Processing case, free of additional charge, any arts-related O and P petition that USCIS fails to adjudicate within 30 days. Although current statute requires a maximum 14-day processing period for O & P petitions, the USCIS, in meetings with the nonprofit performing arts community, has identified 30 days as the agency’s goal for the maximum processing period. A 30-day maximum regular processing period, when combined with the Premium Processing service free-of-charge (15 days), would bring treatment of regular petitions closer to the 45-day processing period typically experienced prior to the June 1, 2001 implementation of the Premium Processing Service.

We further recommend a complete review and update of the Form I-129 visa petition forms and instructions. The 1995 revisions to the forms and instructions include errors and omissions. We request comprehensive and ongoing training in the O and P visa standards at USCIS service centers.

Inaccuracies in service center processing result in unwarranted requests for additional evidence from the petitioner, further delaying the visa process. The Shreveport Symphony Orchestra recently collaborated with a Canadian artist manager and the Canadian office of the American Federation of Musicians to prepare a visa petition for a musician scheduled

*American Symphony Orchestra League
April 4, 2006*

to arrive in the United States on March 27 to begin rehearsals with the Orchestra. The original petition was filed with the USCIS on December 12, 2005. The USCIS responded nearly three months later with an erroneous request for “additional evidence” - documentation that had been included in the original petition. After fevered communication with USCIS and Congressional intervention, the petition was approved on March 23rd - just in time for the artist’s departure. The experience of this petitioner is not an isolated case. Inaccuracies in the petition process cost precious time, throw planned concerts into jeopardy, and also discourage many petitioners from undergoing the effort and uncertainty that may be involved in engaging a foreign guest artist.

Extend the USCIS earliest filing date to twelve months in advance of a performance, from the current six-month limit.

Current USCIS policy dictates that nonprofit arts organizations may not file earlier than six months before an artist’s event, which, given the uncertainty of regular processing times, leaves a very tight window for visa approval. Simple administrative reforms such as extending the petition period to twelve months are eminently reasonable and provide interim relief to a portion of petitioners, while the remaining majority await substantial improvements to the O and P visa process. While the performing arts community’s first priority for improving the visa process for foreign guest artists is to bring the regular processing time back down, extending the earliest filing date from 6 to 12 months will provide relief for those petitioners prepared to file far in advance of a performance.

On April 28, 2005, USCIS issued a proposed rule to allow applications for O and P visas to be filed one year before the proposed performance date. The rule issued by USCIS comes close to offering that modest form of relief - but gets it wrong. Instead of extending the earliest filing date, the proposed rule merely shifts the current six-month window of opportunity, so that petitioners would be required to apply no earlier than one year in advance of a performance, but no later than six months in advance of a performance.

The performing arts community and other public stakeholders have weighed in with comments to USCIS, urging that the rule be corrected and finalized. Among the public response to the rule, 56 performing arts organizations submitted comments. On June 27, 2005, thirteen current and former House Judiciary committee members signed comments.

The amount of time and uncertainty involved in processing O and P visa petitions at USCIS service centers has put a squeeze on the second phase of the visa process - consular processing. As artists may be left with little time to collect a visa, it is more important than ever that consular processing run efficiently.

Requested Consular Processing Improvements

Over the past two years, the nonprofit performing arts community has engaged in productive conversations with officials at the U.S. Department of State and Department of Homeland Security, outlining concerns regarding consular processing of artist visas.

In response to concerns expressed by the performing arts community, and as a result of meetings facilitated by the National Endowment for the Arts, the U.S. Department of State

*American Symphony Orchestra League
April 4, 2006*

issued a July 19, 2005 memo to consulates encouraging policies favorable to foreign artists applying for a visa to perform in the United States. The policy memo encourages consulates to accommodate the time-sensitive nature of arts-related visas and to avoid delays in issuing artist visas. Also, in the case of P visas, the memo reminds consulates that individual artists that are part of a group are not legally required to undergo consular processing at the same time and place. Finally, the memo urges consulates to exercise restraint in questioning the performance abilities of artists applying for visas, and specifically discourages consular officers from asking artists to perform as part of the visa application process.

While the memo is a strong statement of support for reasonable visa processing for artists, each consulate has the authority to determine its visa issuance rules. Despite this message from the Department of State, consular difficulties for artists persist.

Facilitate Artist Visa Interviews at U.S. Consulates

While State Department policy permits members of a performing arts group to be interviewed at multiple consulates, in practice, consulates frequently continue to require that members of a group travel to a single consulate for a joint interview. Requiring all members of a performing group to appear at a single U.S. consulate is extremely problematic, especially for large groups and for artists in remote areas who must travel great distances. This happens at tremendous difficulty and expense to the artists and, in some cases, appears to be having a chilling effect on their willingness to travel to the United States. An article in the March 30, 2006 issue of *The Guardian* profiled a recent decision by the Manchester-based orchestra, the Hallé, to cancel a planned tour to the United States, citing consular processing difficulties.

Since the policy memo issued by the Department of State is not being uniformly implemented, we urge the Department to seek some means of further clarifying that group members may separately visit multiple consulates to conduct interviews and collect visas.

Improve Communications between USCIS and Consulates

While U.S.-based arts organizations are committed to preparing for the visa process well in advance of a performance, the travel schedule of foreign performing artists may require a change in plan on short notice. We were pleased to learn of creation of the Kentucky Consular Center, a single division of the Department of State Visa Office to which USCIS service centers send visa approval notices – the I-797 form – once a petition has been approved. Whereas USCIS previously cabled approval notices to a consular office pre-identified by the visa petitioner, consulates may now request verification of the visa approval directly from the Kentucky Consular Center. Centralizing the communication from the Kentucky Consular Center to all consulate posts – and converting the I-797 and related information to an electronic format – provides for more nimble communication between USCIS and consulates, and also may allow more flexibility for artists to appear at a consulate of their choice. It should also eliminate the need for more than one original I-797, because applicants should be able to go to other consular posts with a copy of the I-797 approval notice that, in turn, will email the Kentucky Consular Center to confirm the approval.

In nearly every case, consulates still currently require artists to present a hard copy of the I-797 approval notice. When visa processing is down-to-the-wire and every day counts, placing the original notice in the hands of the artist can be extremely difficult. In such cases, consulates should be able to access the approval information directly from the Kentucky Consular Center.

The Detroit Symphony Orchestra very recently encountered a case of this kind. A last-minute cancellation by a featured guest artist required the Orchestra to find a qualified musician to perform a highly specialized piece scheduled for performances this Thursday, April 6 and Saturday, April 8. Violinist Anthony Marwood, a citizen of the United Kingdom, has recently recorded and performed the work and is available to perform in the United States. With payment of the Premium Processing Fee, the visa was approved.

The Orchestra requested an expedited visa appointment at the London consulate, which was denied. As Mr. Marwood was performing in Dublin, Ireland this past Sunday, April 2, the Orchestra requested an expedited appointment at the U.S. consulate in Dublin, which was granted. However, the crucial part of this transaction was not complete – the U.S. consulate in Dublin required an original copy of Mr. Marwood's I-797 approval notice, which had been sent to London. Despite requests to the USCIS Nebraska Service Center to re-route the approval notice - and Congressional intervention - the response was no. Just in time for the Dublin consular interview, the president of the Irish National Chamber Orchestra called in a favor to the airline Aer Lingus, which transported the original I-797 form to the artist. On Monday afternoon, April 3, Mr. Marwood's visa was approved. There is no doubt that all parties involved would have spared a great deal of time and expense had the consulates availed themselves of the efficiencies of direct contact with the Kentucky Consular Center.

Provide Ongoing Consideration of a Frequent-Traveler Policy

While the performing arts community is conscious of the security requirements that apply to all visitors to the United States, we remain interested in any opportunity to further streamline consular processing. Over the past two years, we have heard occasional mention of a frequent traveler process which might exempt repeat travelers from the interview process, without compromising U.S. security interests. This remedy could be a significant help to artists who frequently perform in the United States.

Ongoing International Cultural Exchange Requires Affordable, Reliable, and Timely Visa Processing

When Secretary Michael Chertoff announced the U.S. Department of Homeland Security's agenda on July 13, 2005, he said, "Our heritage and our national character inspire us to create a more welcoming society for those who lawfully come to our shores to work, learn, and visit." In the spirit of Secretary Chertoff's statements, and as the USCIS and Department of State continue to strive toward more efficient and effective visa processing policies, we encourage policymakers at all levels to take into consideration the impact on the nonprofit performing arts in the United States, and international cultural exchange worldwide.

American Symphony Orchestra League
April 4, 2006

Visa processing delays compound the growing risk that foreign guest artists will be unable to enter the United States in time for their engagements, causing financial burdens on performing arts organizations, and potentially denying the American public the opportunity to experience international artistry due to delays and cancellations. By improving the visa process for foreign guest artists at both the USCIS and in consular processing, the United States will encourage international artistry to be made available to American audiences, and will also ensure that American performing artists are welcomed to the international stage.

**Testimony Supporting Improvements to the
Visa Processing Procedure for
International Artists
Wishing to Perform in the United States of America**

**Submitted to
The House Committee on Government Reform**

**Thomas F. Lee
President
American Federation of Musicians of the
United States and Canada
April 4, 2006**

Organization and Issue Background

The American Federation of Musicians of the United States and Canada (AFM) wishes to thank the House Committee on Government Reform for holding hearings into an issue that is crucial to improving cultural exchange. The AFM looks forward to working closely with this Committee to help bring about real and meaningful change to the visa processing system as it currently exists.

The AFM is an international organization with a membership of over 110,000 professional musicians. The AFM represents artists in every genre, in every state and at career level. Our members play venues that range in size from the most cavernous stadiums to the most intimate clubs and everywhere else in between. The AFM is truly a cross-border organization that prides itself on having between 15,000 – 16,000 Canadian members. The AFM is the largest organization representing professional musicians in the world. The AFM is also one of the largest petitioners of the United States' Citizenship and Immigration Services (USCIS) for artist visas, literally thousands per year. This is an issue that we are deeply concerned about and directly affected by.

In June of 2001 the USCIS (then the United States Immigration and Naturalization Service) implemented a new policy called Premium Processing Service for O and P visas. The idea was to help streamline the visa processing procedure by expediting visas for individuals or organizations able to pay a \$1000 fee per application. What might be considered a small fee by some organizations and large companies is a crippling cost to musicians and nonprofit arts organizations. As a result of the \$1000 fee or extraneous processing times, many Canadian musicians and international artists are prohibited from finding work and performing in the United States. Either their visas are not processed in time, or the fee for a quick turnaround time makes the prospect of bringing international talent to American audiences unprofitable and therefore unrealistic. Within the music business, many offers for work are made on short notice that requires expedited processing in order to book gigs.

The AFM understands that border security became an even greater issue of concern after the terrorist attacks of September 11th, 2001. However, it should be stressed that the delays our Canadian members now face are not because of added border security or the stricter guidelines that were put into place, but rather, face delays due to a change in USCIS policy that was implemented more than 3 months before September 11th changed border operations throughout the country.

Visa Difficulties at US Consulates

Since the vast majority of visa issues that the AFM faces come from our Canadian members, there is little that we as an organization can add to the discussion about the visa issues that arise at US consulates around the world. There is, however, the issue of a lack of communication between the USCIS and the consulates that both individual members and the AFM's Canadian office have cited.

The AFM applauds the steps that the State Department has made to open a Kentucky Consular Center to work with USCIS on visa processing. The AFM will continue to work closely with other interested parties in the performance and artistic communities as well as with relevant US agencies to make sure that the avenues of communication continue to improve between USCIS and US Consulates

Visa Delays, Backlogs and Premium Processing Service at USCIS

The American Federation of Musicians submits literally thousands of O and P visas to USCIS every year. The office of AFM Canada has full-time staff dedicated solely to helping Canadian artists fill out and expedite their US paperwork. Since June of 2001, when Premium Processing went into effect, international performers have seen visa processing times jump from an average of 45 days to 90 days to 150 days to 6 months. The idea behind Premium Processing Service was simple: guarantee visa processing within 15 calendar days for organizations or individuals that could pay a \$1000 fee. The resulting fees on the one hand, and extensive delays on the other, means that many arts organizations can no longer realistically plan on performing or touring in the United States.

Many individual artists and performance groups have had to cancel, delay or miss engagements in the United States because visa processing times have become either too unreliable or too cumbersome. There have been instances where Canadian artists have booked shows in the US only to have to cancel because they could not obtain their visas in time and the \$1000 Premium Processing Service fee is not affordable. Many musical performances do not book the 6 months in advance that is now required to wait for USCIS to process visas. This time constraint, and the lack of an efficient and uniform process means that many organizations in the United States, organizations that must advertise, sell tickets and rehearse with international artists, for specific performances, can no longer be assured of an international artist's ability to enter and perform in the United States. This causes more financial hardships for both the international artist and American host organizations.

The delays caused by the implementation of this new policy has not just hurt individual musicians and groups that wish to perform in the United States, but has also hurt the financial bottom lines of American arts organizations wishing to sponsor international guest artists and their American counterparts - artists and organizations that lose work and exposure when performers from abroad have to cancel due to a cumbersome visa process.

Individual Artists' Difficulties

Since June of 2001, the AFM has worked with USCIS and Members of Congress to try and improve the visa processing procedure for our Canadian members. Very little has been achieved since then, and the complaints that Canadian members of the AFM trying to obtain visas have continued to grow in number and scope. Some examples of specific complaints from AFM members are attached as an appendix to this testimony.

The most prominent complaints that members make regarding the processing of American visas are that it is too expensive, it takes too long and that they have had to cancel or miss the start of jobs because of the current O and P processing system. Below is the text of a letter from David Merry, a member of AFM Local 149 in Toronto that explains firsthand the hardships and frustration that Canadian musicians must face when they try to get visas to work in the United States:

I have come very close to losing two gigs because the turnaround is never guaranteed ie: 90 days. I have a hard time getting club owners to commit to bookings four months out. That is what now is needed as a minimum when applying because of the 90 day turnaround. I also have had to turn down 5 jobs because the owner offered me work but there was only 30 to 60 days notice. Since the gigs pay around \$2000 by the time I applied for the expedited visa I would only be earning \$1000 after the expiated fee. Before these changes I really learned to work with the club owners and venues with the shorter visa times and now with the longer turnaround the US jobs are becoming more difficult. I have two pretty good regular gigs in Atlantic City and Las Vegas that I am worried about losing them as it seems much easier for the club owner to book acts that don't need at least a 90 day window. In regards to the two gigs I almost lost, I called the government official's office that I was directed to when my visa wasn't ready. Luckily at the eleventh hour both came through. They were both very high profile jobs and I was really sweating (and so were the bookers as we came down to the wire.

I have won several awards and finally have some notoriety in my genre for my show and after 20 some odd years in the business I finally have these great US jobs that I've been working towards but I am very nervous about some falling through with the 90 day turnaround. I am all for helping devise a new plan or offering ideas that could help me pursue these great gigs south of the border that I have been working towards for my whole career.

Proposed Reforms to Visa Delay Problems

There is a simple, non-controversial and straight-forward remedy to reform and improve USCIS' visa processing service. If enacted, these proposed reforms

would allow many more artists to enter the United States in the spirit of cultural and artistic exchange.

Simply put, the AFM would like to see language put into law that would state that O and P visas for arts organizations should be processed with 30 days. If they are not processed in this time, O and P visas should automatically be expedited through USCIS' Premium Processing Service with the usual fee of \$1000 waived. These simple changes will allow both international artists and their American hosts to more easily be able to book, organize and travel to the United States as guest artists.

The AFM looks forward to continuing to work with this Committee to resolve this issue in a manner that is amicable to all sides involved.

Appendix A:

Excerpts of P-2 Complaints from Canadian Members of the American Federation of Musicians

I find the time deadlines and the extraordinary fees attached to fast approval extremely frustrating and outrageous. Spur-of-the-moment bookings by groups that wish to hire us are always turned down because they can't afford the \$1000.00 fee attached to quickly expedite the visa processing, and they haven't allowed enough time for us to set up all the necessary US visa paperwork for the 130 day processing avenue.

Due to these conditions, I turn down many small organizations and ethnic clubs that would sincerely love to have us play. A further explanation of the rules and regulations discourages any continued contact by these clients.

###

I have had to decline numerous offers for my performances in the US since 2001 because of insufficient time to process a P-2 visa. It is not unusual to receive a job offer on less than three months notice. Please be aware that the option for premium processing for \$1,000 usually results in the offer being unprofitable.

###

I have been wanting to perform in the states for many years but it is very difficult to plan a music tour in the US with the costs and delays associated with the current system... Musicians cannot afford this system nor necessarily plan all gigs ahead of time, nor wait so long. I have had a couple of opportunities to perform in a high end situation in Seattle and had to turn them both down due to P-2 Visa costs and processing time.

###

Every Canadian musician I know has problems working in the United States... Recently, a member of the Vancouver Symphony was told that he could not obtain a visa to attend his summer job in Colorado because it didn't pay enough money.

###

It is incredibly difficult for an independent band to have to work with the same visa regulations as a national act. We were not touring to make money, but rather to build our fan base and although we would break even, would rarely make a profit. The P2 visa fees and requirements were an incredible hindrance to us. It is very near impossible for an independent band to have a show booked 6 months in advance... To have one show booked for every thirty days we wanted the visa to be valid for and to have the application in early enough so that we would not have to pay for expedited processing (which for an independent band is VERY expensive) was near impossible... We ended up having to pay for expedited processing twice; the first time because we had the opportunity to join a tour at short notice (actually we had over 2 months notice, but this wasn't enough time) and the second time we had to pay to get the visa expedited despite the fact that we had had it in early enough to meet the guidelines, they were just experiencing a 'backlog' of applications so it was taking longer. The independent rock scene just doesn't work in a timescale that allows shows to be booked over half a year in

advance... Please consider changing the P2 visa regulations. At the very least, make the system graduated so that small, independent bands operating with little or no budget would be able to cross the border (going either way) for shows.

###

As we are putting together a US tour for the fall, we have no choice but to allow *more* than 120 days to process the P-2's (a difficult feat when trying to book concerts and get contracts signed that far ahead), pay our money and hope for the best. The "best" wasn't good enough last time. We can only hope we don't end up leaving our US employers hanging if, once again, visas don't appear.

###

It's getting harder and harder to get into the US legally. Recently we had an offer to play at a casino in Milwaukee, which is a beautiful venue and a good gig for us.

Unfortunately, it came through about 10 weeks out from the date of the show, which has meant that we have to use the expedited system. That and our dues (since it's the beginning of the year) have added up to a large amount of money for a band at our level. In fact, it changes the trip from one where we would break even or make some money to one that's going to be in the red.

We can absorb that financial burden once in awhile, but sometimes gigs turn up inside a 3 month deadline, which brings back the extra fee of \$1000 US again.

###

We have applied for P2 Visa's on a number of occasions and finally just gave up on using them...

The first time we tried to get a P2 Visa we were told that it would take only "about 3 months" we actually had 4 months to spare so we applied... About 2 weeks before the gig was to take place (for a crowd of over 18,000 people in Michigan) we were told that the P2 visa was now going to take 6 months to process... BUT, for a mere \$1000 US it could be done in time to play (10 days or less). We were only getting paid \$2800 US to come and play BUT we did it as we didn't want to hurt either our reputation or that of the guy throwing the concert. Well, even after paying the extra money the Visa was still not processed until the day before we left

The second time we went to apply for a P2 Visa we were told that it was taking 6-8 months to process. We only had 7 months before the gig but thought that it was worth a try. The week before the gig we still had NO VISA but we did get the call about having things "spead up" for a mere \$1000 US... Instead of paying the money we called the local Congressman in the area. Within 15 minutes we had a call back from both the Congress person's office and the people processing the P2 VISA to say that everything was in place and approved. It was faxed to us that afternoon.

I don't mind paying reasonable fees and filling in the proper paper work. The problem is I was doing all this and still not getting a Visa in the end. The government needs to provide a Visa in reasonable time (3 months or less) at a reasonable price. Most bands I know make under \$1500US a show and still need to take some expenses out of that.

###

As Canadian musicians, an essential component of artistic survival is the ability to perform and disseminate our music outside our own backyard. We have performed across the world in Europe and in Asia...The most stressful and economically taxing experiences come when performing for our nearest and dearest neighbors to the south.

The reasons for this are inexplicable. The argument of "national security" holds no weight as millions of Canadian citizens cross the border daily without need of extensive paperwork and governmental fees. Arguments for economic security are equally irrelevant: most musical work in the United States is temporary, and musical groups are hired for their specific artistic contributions and therefore are not replacing equivalent American workers. Thus, the exponential delay in approving Canadian artists to work in the United States helps no one, and harms many.

Applying for work permits is always a stressful and exasperating ordeal. The recent changes in processing periods combined with the need for ever-increasing detail on concerts is entirely counterintuitive. In many cases, not all performances are confirmed or details made available within the required processing time, leading to a mad race-to-the-finish in order to secure the necessary documents. In one recent case, we were required to use the odious "premium processing" route, after we were informed that even working through US congresspersons was no longer considered an acceptable route to securing acceptance.

Even worse is the loss of work. We are now in the position where if a presenter calls us for a performance, we have to turn it down if it doesn't allow for enough time to secure the documentation. Not only does this hurt the Canadian musician: it also hurts the well-meaning American presenter who may not be able to book far enough in advance, or to provide the silver to cross the appropriate palms.

In short, the current P2 Visa policies are regressive. They help no one, and hurt both Canadians and Americans. They choke cultural exchange. They make the sharing of music an exhausting exercise of form-filling, wallet-draining and nail-biting. I urge the US Government to reflect upon this current state of affairs, and to consider making the sharing of music and ideas a less-hostile endeavor.

###